

# SENTAC



## Delaware Sentencing Accountability Commission Benchbook 2006\*

**\*INCLUDES RELEVANT LEGISLATION OF  
THE 1st & 2nd SESSIONS OF THE 143<sup>rd</sup>  
GENERAL ASSEMBLY**

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Firearm, Removal from LEO	Fel C	11-1458	37
Firearm Sale Violation (False Statement/Information)	Fel G	11-1448A(l)	59
Firearm Sale Violation (Prior Conv)	Fel G	11-1448A(m)	59
Firearm Sale Violation (Improper Criminal History Use)	Misd A (o&d)	11-1448A(k)	67
Firearm Sale Violation (Dealer: Improper Sale/Delivery)	Misd A (o&d)	11-1448A(m)	68
Firearm Transaction on Behalf of Another (Prior Conv)	Fel C Violent	11-1455	34
Firearm Transaction on Behalf of Another	Fel F	11-1455	53
Flee or Attempt to Elude	Title 21	21-4103(b)	75
Food Stamps, Transfer/Alter/Possess (F/A, Ammo)	Fel B	31-610(a)(3)	30
Food Stamps, Transfer/Alter/Possess (\$500>)	Fel E	31-610(a)(1)	48
Food Stamps, Transfer/Alter/Possess (<\$500)	Misd A (o&d)	31-610(a)(2)	68
Forgery 1 <sup>st</sup> Degree (Money/Stamps/Stocks/Bonds)	Fel F	11-861(b)(1)	52
Forgery 2 <sup>nd</sup> Degree (Deed/Will/Public Record/Rx)	Fel G	11-861(b)(2)	58
Forgery 3 <sup>rd</sup> Degree	Misd A (prop)	11-861(b)(3)	64
Forgery Devices, Possession of	Fel G	11-862	58
Foreign Lotteries, Engaging in	Misd A (o&d)	11-1402	67
Fraud in Insolvency	Misd A (prop)	11-892	64
Fraudulent Conveyance, Public Land	Fel G	11-911	58
Fraudulent Receipt, Public Land	Fel G	11-912	58
Furnishing Contraband	Unclass Misd	11-6562A	72
Gambling, Advancing	Misd A (o&d)	11-1401	67
Gambling Device, Interest in Keeping	Misd A (o&d)	11-1406	67
Gambling Device, Possession	Misd A (o&d)	11-1405	67
Gambling Information, Dissemination	Misd A (o&d)	11-1411	67
Gambling, Provide Premises (Prior Conv <5 yr)	Misd A (o&d)	11-1404	67
Gambling, Provide Premises	Unclass Misd	11-1404	72
Gang Participation (see underlying offense classification)			
Give Firearm to Person Prohibited	Fel F	11-1454	53
Graffiti and Graffiti Implements, Possession of	Unclass Misd	11-812	72
Grand Jury Disclosure	Misd B	11-1273	70
Gratuities, Giving Unlawful	Misd A (o&d)	11-1205	67
Gratuities, Receiving Unlawful	Misd A (o&d)	11-1206	67
Habitual Criminal Status		11-4214	
Harassment	Misd B	11-1311	70
Harassment, Aggravated	Fel G	11-1312	59
Harassment of LE Animal	Unclass Misd	11-1250(a)	72
Hate Crime- If Underlying Offense is:		11-1304	
Class A Felony	Fel A Violent	11-1304(b)(4)	27
Class B Felony	Fel B Violent	11-1304(b)(4)	30
Class C Felony	Fel B Violent	11-1304(b)(3)	30
Class D Felony	Fel C Violent	11-1304(b)(3)	34
Class E Felony	Fel D Violent	11-1304(b)(3)	39
Class F Felony	Fel E Violent	11-1304(b)(3)	44
Class G Felony	Fel F Violent	11-1304(b)(3)	50
Class A, B or C Misdemeanor	Fel G Violent	11-1304(b)(2)	56
Unclassified Misdemeanor/Violation	Misd A (viol)	11-1304(b)(1)	62
Health Care Fraud (\$100,000>/Provider)	Fel C	11-913A	37
Health Care Fraud (>\$50,000<\$100,000)	Fel E	11-913A	47
Health Care Fraud (<\$50,000)	Fel G	11-913A	59
Heroin			
Mfr/Del/PWI Narcotics Sch. I,II	Fel C Violent	16-4751(a)	34
Mfr/Del/PWI Narcotics (Death)	Fel B Violent	16-4751(c)	30



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Trafficking in Heroin	Fel B Violent	16-4753A(a)(3)	30
Distribution Narcotic to U/21	Fel C Violent	16-4761(a)(1)	34
Purchase Narcotic from U/18	Fel C	16-4761A(a)(1)	37
Purchase Narcotic from U/16	Fel C	16-4761A(a)(3)	37
Dist/Del/Poss Narcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(1)	56
Dist/Del/Poss Controlled Substance w/in 300 ft part	Fel G Violent	16-4768	56
Hinder Prosecution (Fel)	Fel G	11-1244(b)	59
Hinder Prosecution (Misd)	Misd A (o&d)	11-1244	67
Hire Minor to Violate Drug Provisions	Fel G Violent	16-4761(c)	56
Hoax Device	Fel F	11-622	52
Home Improvement Fraud (> \$500/vt>62/Prior Conv)	Fel G	11-916	59
Home Improvement Fraud (< \$500)	Misd A (prop)	11-916	64
Hypodermic Needles/Syringes, Unlawful Delivery	Fel G	16-4757(d)	60
Hypodermic Needles/Syringe, Unlawful Possession	Unclass Misd	16-4757(c)	72
Identity Theft	Fel D	11-854	42
Import Undetectable Knives	Fel G	11-1446A	59
Imprisonment, Unlawful 1 <sup>st</sup> Degree	Fel G Violent	11-782	56
Imprisonment, Unlawful 2 <sup>nd</sup> Degree	Misd A (o&d)	11-781	66
Improper Influence	Misd A (o&d)	11-1207	67
Improper Labeling (PriorConv 100>)	Fel F	11-922(c)	52
Improper Labeling (1st offense 100>)	Fel G	11-922(b)	59
Improper Labeling (<100)	Unclass Misd	11-922(b)	72
Improper Request/Dissemination Criminal History	Misd A (o&d)	11-1448A(k)	67
Incest	Misd A (viol)	11-766	62
Indecent Exposure 1 <sup>st</sup> Degree	Misd A (o&d)	11-765	66
Indecent Exposure 2 <sup>nd</sup> Degree	Unclass Misd	11-764	72
Insurance Fraud	Fel G	11-913	59
Interest in Keep Gambling Device	Misd A (o&d)	11-1406	67
Interfere w/Child Witness (Fail to Produce)	Fel E	11-1263A	47
Interfere w/Child Witness(Complainant:Remove fr Jur)	Fel F	11-1263A	53
Interfere w/Child Witness (Remove from Jur)	Fel G	11-1263A	59
Interfere w/Custody (Removal from State)	Fel G	11-785	58
Interfere w/Custody	Misd A (o&d)	11-785	66
Interfere w/Emergency Communication	Misd B	11-1313	70
Interfere w/ Levied Property	Misd A (o&d)	11-893	66
Interruption Computer Services (\$10,000>)	Fel D	11-934	42
Interruption Computer Services (\$5,000-\$9,999)	Fel E	11-934	47
Interruption Computer Services (\$1,000-\$4,999)	Fel F	11-934	52
Interruption Computer Services (\$500-\$999)	Fel G	11-934	59
Interruption Computer Services (<\$500)	Misd A (prop)	11-934	64
Intimidation, Aggravated (Witness/Victim)	Fel D Violent	11-3533	39
Intimidation (Witness/Victim)	Fel E	11-3532	48
Issue Abortion Articles	Misd B	11-653	70
Issue Bad Check (\$1,000>)	Fel G	11-900	58
Issue Bad Check (<\$1,000)	Misd A (prop)	11-900	64
Issue False Certificate	Fel G	11-878	58
Juror Misconduct	Misd A (o&d)	11-1267	67
Keep Drugs in Original Container	Misd A (cs)	16-4758	69
Kidnapping 1 <sup>st</sup> Degree	Fel B Violent	11-783A	29
Kidnapping 2 <sup>nd</sup> Degree	Fel C Violent	11-783	34
Kickback Schemes	Fel E	31-1005	48
Larceny of Livestock	Fel G	11-859	58
Leaving Accident Scene	Title 21	21-4201	75
Leaving Accident Scene (Injury/Death)	Title 21	21-4202	75
Lewdness	Misd B	11-1341	70
Loitering	Violation	11-1321	74
Loitering on State-Supported School Property	Violation	11-1320	74

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LSD (Lysergic Acid Diethylamide)			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	44
Trafficking in LSD	Fel B Violent	16-4753A(a)(7)	30
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	44
Purchase Nonnarcotic from U/18	Fel C	16-4761A(a)(2)	37
Purchase Nonnarcotic from U/16	Fel C	16-4761A(a)(4)	37
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	56
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	56
Maintain Structure/Conveyance for Illegal Drug Use	Fel F	16-4755(a)(5)	53
Maintain Fire Hazard	Unclass Misd	16-6611(b)	72
Maintain an Obstruction (Prior Conv < 2 yrs)	Misd A (o&d)	11-1428	67
Maintain an Obstruction	Violation	11-1428	74
Maintain Structure/Conveyance for Illegal Use/Delivery	Fel F	16-4755(a)(5)	53
Make False Written Statement	Misd A (o&d)	11-1233	67
Malicious Interference w/Emergency Communication	Misd B	11-1313	70
Manslaughter	Fel B Violent	11-632	29
Manufacture/Del/PWI Drug Paraphernalia	Fel G	16-4771(b)	60
Manufacture/Del/PWI Narcotics (Death)	Fel B Violent	16-4751(c)	30
Manufacture/Del/PWI Narcotics Sch. I, II	Fel C Violent	16-4751(a)	34
Manufacture/Del/PWI Narcotics	Fel E Violent	16-4751(b)	44
Manufacture/Del/PWI Nonnarcotics	Fel E Violent	16-4752(a)	44
Manufacture/Dist Unauthorized Controlled Substance	Fel F	16-4755(a)(2)	53
Manufacture/Use/Poss Explosive/Incendiary Device	Fel D Violent	11-1338	39
Manufacture Undetectable Knives	Fel G	11-1446A	59
Marijuana			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4751(a)	44
Trafficking in Marijuana	Fel B Violent	16-4753A(a)(1)	30
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	44
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	48
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	48
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	56
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	56
MDMA (Methylenedioxymethamphetamine)			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	44
Trafficking in MDMA	Fel B Violent	16-4753A(a)(9)	30
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	44
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	48
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	48
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	56
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	56
Menacing	Unclass Misd	11-602	72
Methamphetamines			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	44
Trafficking in Methamphetamine	Fel B Violent	16-4753A(a)(4)	30
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	44
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	48
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	48
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	56
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	56
Misapply Property (\$1,000>)	Fel G	11-848	58
Misapply Property (<\$1,000)	Misd A (prop)	11-848	64
Misconduct by Juror	Misd A (o&d)	11-1267	67
Misrepresentation to Qualify as Provider	Fel E	31-1004(3)	48
Misrepresentation as to Operation of Facility	Fel E	31-1004(4)	48
Misuse Computer System Info (\$10,000>)	Fel D	11-935	42
Misuse Computer System Info (\$5,000-\$9,999)	Fel E	11-935	47
Misuse Computer System Info (\$1,000-\$4,999/risk serious inj)	Fel F	11-935	52

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Misuse Computer System Info (\$500-\$999)	Fel G	11-935	59
Misuse Computer System Info (<\$500)	Misd A (prop)	11-935	64
Misuse Prisoner Mail (Prior Conv)	Fel G	11-1260	59
Misuse Prisoner Mail	Misd A (o&d)	11-1260	67
Murder 1 <sup>st</sup> Degree	Fel A Violent	11-636	27
Murder 2 <sup>nd</sup> Degree	Fel A Violent	11-635	27
Murder (Child) by Abuse/Neglect 1 <sup>st</sup> Degree	Fel A Violent	11-634	27
Murder (Child) by Abuse/Neglect 2 <sup>nd</sup> Degree	Fel B Violent	11-633	29
New Home Construction Fraud (\$100,000>)	Fel C	11-917(d)(3)	37
New Home Construction Fraud (\$50,000-\$100,000)	Fel F	11-917(d)(2)	52
New Home Construction Fraud (\$1000-\$50,000)	Fel G	11-917(d)(1)	59
New Home Construction Fraud (<\$1000)	Misd A (prop)	11-917(d)	64
Obscenity, Provide to Minor	Fel E	11-1361	48
Obscenity	Fel G	11-1361	59
Obscene Literature Harmful to Minors	Misd A (o&d)	11-1365	67
Obstruct Control of Rabies	Misd B	11-1248	70
Obstruct Firefighting	Misd A (o&d)	11-1243	67
Obstruct Public Passageway	Violation	11-1323	74
Obstruct Ingress/Egress Public Building	Unclass Misd	11-1324	72
Obstruct Emergency Phone Call	Misd B	11-1313	70
Obstruct Rabies Control	Misd B	11-1248	70
Obstruct Rabies Control During Emergency	Fel E	11-1248	47
Obtain Controlled Substance By Fraud/Theft	Fel F	16-4756	53
Offensive Touch (vt=emergency/health care employee)	Misd A (o&d)	11-601(a)(1)	66
Offensive Touch (Bodily Emissions)	Misd A (o&d)	11-601(a)(2)	66
Offensive Touch	Unclass Misd	11-601	72
Offer False Instrument for Filing	Misd A (o&d)	11-877	66
Official Misconduct	Misd A (o&d)	11-1211	67
Operation of a Vehicle Causing Death	Title 21	21-4176A	75
Operation of a Vessel or Boat While Under the Influence	Title 23	23-2302	75
Organized Crime/Racketeering	Fel B Violent	11-1503	30
Out-of-State Liquor Agent Registration Violation	Violation	11-1316	74
Patronizing Prostitute	Unclass Misd	11-1343	72
PCP (Phencyclidine)			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	44
Trafficking in PCP	Fel B Violent	16-4753A(a)(6)	30
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	44
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	48
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	48
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	56
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	56
Perjury 1 <sup>st</sup> Degree	Fel D	11-1223	42
Perjury 2 <sup>nd</sup> Degree	Fel F	11-1222	53
Perjury 3 <sup>rd</sup> Degree	Misd A (o&d)	11-1221	67
Permit Access by Minor to Firearm	Misd A (o&d)	11-1456	68
Permitting Prostitution	Misd B	11-1355	70
Possession Burglary Tools	Fel F	11-828	52
Possession Child Pornography	Fel F	11-1111	53
Possession Deadly Weapon During Felony	Fel B Violent	11-1447	30
Possession Destructive Weapon	Fel E Violent	11-1444	44
Possession/Dist/Del. Drugs w/in 300 ft. Park/Worship	Fel G Violent	16-4768	56
Possession/Dist/Del. Drugs w/in 1,000 ft. School	Fel G Violent	16-4767	56
Possession Drug Paraphernalia	Misd A (cs)	16-4771(a)	69
Possession Firearm During Felony	Fel B Violent	11-1447A	30
Possession Forgery Devices	Fel G	11-862	58
Possession Gambling Devices	Misd A (o&d)	11-1405	67
Possession of Graffiti Implements/Tools	Unclass Misd	11-812	72

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Possession Hypodermic Needle/Syringe	Unclass Misd	16-4757(c)	72
Poss/Mfr/Use Bomb/Explosive/Incendiary Device	Fel D Violent	11-1338	39
Poss/Purch DW(Not Firearm/DestDevice/Ammo) Person Prohibit	Fel F	11-1448	53
Poss/Purch Firearm/Ammo By Person Prohibited	Fel D	11-1448	42
Poss/Purch Firearm/DestDevice Person Prohibited (Prior Viol Fel)	Fel D Violent	11-1448(e)	39
Poss/Purch Firearm with Altered Serial Number	Fel D Violent	11-1459	39
Possess Shoplift Tools	Fel F	11-860	52
Possess Telecommunication Devices (50+/2 Priors)	Fel D	11-850(b)(3)	42
Possess Telecommunication Devices (10-50/Prior Conv)	Fel F	11-850(b)(2)	52
Possess Telecommunication Devices	Unclass Misd	11-850(b)(1)	72
Possess/Transfer/Alter Food Stamps (FA/Ammo/CS)	Fel B Violent	31-610(a)(3)	30
Possess/Transfer/Alter Food Stamps (\$500>)	Fel E	31-610(a)(1)	48
Possess/Transfer/Alter Food Stamps (<\$500)	Misd A (o&d)	31-610(a)(2)	68
Possess Undetectable Knife	Fel G	11-1446A	59
Possess/Use Narcotics w/out Prescription	Misd A (cs)	16-4753	69
Possess/Use Noncontrolled Substance/Rx	Misd B	16-4754A(b)	70
Possess/Use Nonnarcotic CS w/out Prescription	Misd B	16-4754	70
Possess Vital Record Unlawfully	Fel G	16-3111(a)	60
Possess Vital Record Unlawfully	Unclass Misd	16-3111(b)	72
Possess Weapon Safe Zone-If Underlying Offense is:			
Class E Felony	Fel D	11-1457(j)(3)	42
Class F Felony	Fel E	11-1457(j)(3)	48
Class G Felony	Fel F	11-1457(j)(3)	53
Class B Misdemeanor	Misd A (o&d)	11-1457(j)(1)	68
Unclassified Misdemeanor	Misd B	11-1457(j)(2)	70
Pseudoephedrine/Ephedrine, Sale of	Misd A (cs)	16-4740	69
PWI/Mfr/Del Drug Paraphernalia	Fel G	16-4771(b)	60
PWI/Mfr/Del Narcotics CS (Death)	Fel B Violent	16-4751(c)	30
PWI/Mfr/Del Narcotics Sch. I, II	Fel C Violent	16-4751(a)	34
PWI/Mfr/Del Narcotics	Fel E Violent	16-4751(b)	44
PWI/Mfr/Del Nonnarcotics	Fel E Violent	16-4752(a)	44
Printing Credit Card Receipt, Unlawful	Unclass Misd	11-915A	72
Probation, Violation of (Sentencing Policy)			
Profiteering	Misd A (o&d)	11-1212	67
Promote Prison Contraband (Deadly Weapon)	Fel F Violent	11-1256	50
Promoting Prison Contraband	Misd A (o&d)	11-1256	67
Promoting Prostitution 1 <sup>st</sup> Degree	Fel C Violent	11-1353	34
Promoting Prostitution 2 <sup>nd</sup> Degree	Fel E	11-1352	48
Promoting Prostitution 3 <sup>rd</sup> Degree	Fel F	11-1351	53
Promoting Suicide	Fel F Violent	11-645	50
Prostitution	Misd B	11-1342	70
Provide False Child Abuser Info	Fel G	11-8562(b)	60
Provide Obscenity to Minor	Fel E	11-1361	48
Provide Premises for Gambling (Prior Conv < 5 yrs)	Misd A (o&d)	11-1404	67
Provide Premises for Gambling	Unclass Misd	11-1404	72
Public Intoxication (2 Priors <1 yr)	Unclass Misd	11-1315	72
Public Intoxication	Violation	11-1315	74
Purchase Controlled Substance/ Narcotic from U/18	Fel C	16-4761A(a)(1)	37
Purchase Controlled Substance/ Narcotic from U/16	Fel C	16-4761A(a)(3)	37
Purchase Controlled Substance/Nonnarcotic from U/18	Fel E	16-4761A(a)(2)	48
Purchase Controlled Substance/Nonnarcotic from U/16	Fel E	16-4761A(a)(4)	48
Racketeering	Fel B Violent	11-1503/1504	30
Rape 1 <sup>st</sup> Degree	Fel A Violent	11-773	27
Rape 2 <sup>nd</sup> Degree	Fel B Violent	11-772	29
Rape 3 <sup>rd</sup> Degree	Fel B Violent	11-771	29
Rape 4 <sup>th</sup> Degree	Fel C Violent	11-770	34
Receiving Bribe (Public Servant)	Fel E	11-1203	47

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Receiving Bribe (Witness)	Fel E	11-1262	47
Receiving Bribe (Juror)	Fel E	11-1265	48
Receiving Bribe	Misd A (o&d)	11-882	66
Receiving Stolen Firearm	Fel F	11-1450	53
Receiving Stolen Property (>\$1000/2 Priors)	Fel G	11-851	58
Receiving Stolen Property (<\$1000)	Misd A (prop)	11-851	64
Receiving Unlawful Gratuity	Misd A (o&d)	11-1206	67
Reckless Burning (\$1,500+)	Fel G	11-804	58
Reckless Burning (< \$1,500)	Misd A (prop)	11-804	64
Reckless Driving	Title 21	21-4175	75
Reckless Endangering 1 <sup>st</sup> Degree	Fel E Violent	11-604	44
Reckless Endangering 2 <sup>nd</sup> Degree	Misd A (viol)	11-603	62
Recording Device, Unlawful Operation (Motion Picture)	Misd A (prop)	11-858(a)(2)	64
Recording Device, Unlawful Operation (Still Photograph)	Misd B	11-858(a)(1)	70
Refuse Aid to Police Officer	Misd B	11-1241	70
Refuse to Allow Inspection	Fel F	16-4755(a)(4)	53
Refuse/Fail Keep Proper Record: Controlled Substance	Misd A (cs)	16-4755(a)(3)	69
Refuse Photo/Fingerprints	Misd A (o&d)	11-8522	68
Refuse/Neglect/Hinder Report	Misd A (o&d)	11-8523(a)	68
Registration, Out-of-State Liquor Agents	Violation	11-1316	74
Registration, Sex Offenders	Fel G	11-4120(k)	59
Religious Symbol/Cross Burning	Misd A (prop)	11-805	64
Removing Firearm from LEO	Fel C	11-1458	37
Resist Arrest	Misd A (o&d)	11-1257(b)	67
Resist Arrest with Violence	Fel G	11-1257(a)	59
Riot	Fel F Violent	11-1302	50
Robbery 1 <sup>st</sup> Degree	Fel B Violent	11-832	29
Robbery 2 <sup>nd</sup> Degree	Fel E Violent	11-831	44
Sale of Traffic Control Signal Preemption Device	Title 21	21-4112A(c)	75
Sale of Transferred Recorded Sound	Misd A (o&d)	11-921	66
Salvia Divinorum			
Mfr/Del/PWI Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4752(a)	44
Distribution Nonnarcotic Controlled Substance	Fel E	16-4761(a)(2)	48
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	48
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	48
Dist/Del/Poss Nonnarcotic w/in 1,000ft school	Fel G Violent	16-4767(a)(2)	56
Dist/Del/Poss Controlled Substance w/in 300 ft park	Fel G Violent	16-4768	56
Secure Execution of Document By Deception	Misd A (o&d)	11-909	66
Self Abortion	Misd A (o&d)	11-652	66
Sell or Offer to Sell Undetectable Knives	Fel G	11-1446A	59
Sex Offender Fail to Register	Fel G	11-4120(k)	59
Sex Offender Fail to Comply w/Registration Mandates	Fel G	11-4121(t)	60
Sex Offender Loitering/School	Fel F	11-1112(a)(2)	53
Sex Offender Residing w/in 500 ft. School	Fel G	11-1112(a)(1)	59
Sexual Abuse of Child, Continuous	Fel B Violent	11-778	29
Sexual Contact, Unlawful 1 <sup>st</sup> Degree	Fel F Violent	11-769	50
Sexual Contact, Unlawful 2 <sup>nd</sup> Degree	Fel G Violent	11-768	56
Sexual Contact, Unlawful 3 <sup>rd</sup> Degree	Misd A (viol)	11-767	62
Sexual Exploitation of Child	Fel B Violent	11-1108	29
Sexual Extortion	Fel E Violent	11-776	44
Sexual Harassment	Unclass Misd	11-763	72
Sexual Relations, Detention Facility	Fel G	11-1259	59
Sexual Solicitation of a Child	Fel C Violent	11-1112A	34
Shoplifting (\$1000>)	Fel G	11-840	58
Shoplifting (<\$1000)	Misd A (prop)	11-840	64
Smoking on Bus/Trolley	Violation	11-1330	74
Stalking w/ Deadly Weapon	Fel C Violent	11-1312A	34

<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
Stalking (Threat of Death/Serious Injury)	Fel D Violent	11-1312A	39
Stalking (Fear/Def>21,Vt<14)	Fel F Violent	11-1312A	50
Stalking	Misd A (o&d)	11-1312A	67
Steroids			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	44
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	44
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	48
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	48
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	56
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	56
Substances Releasing Fumes/Vapors	Unclass Misd	11-627	72
Tampering with Juror	Misd A (o&d)	11-1266	67
Tampering w/ Physical Evidence	Fel G	11-1269	59
Tampering w/ Public Records 1 <sup>st</sup> Degree	Fel E	11-876	47
Tampering w/ Public Records 2 <sup>nd</sup> Degree	Misd A (o&d)	11-873	66
Tampering w/ Witness	Fel E	11-1263	47
Telecommunication Device, Unlawful (>50/2 Priors)	Fel D	11-850(b)(3)	42
Telecommunication Device, Unlawful (10-50/Prior)	Fel F	11-850(b)(2)	52
Telecommunication Device, Unlawful	Unclass Misd	11-850(b)(1)	72
Terroristic Threat (Evacuato <sup>n</sup> /SeriousInconv/Reckless)	Fel G	11-621(a)(2)	58
Terroristic Threat (Exposure: Death/Serious Injury)	Fel F	11-621(a)(3)	52
Terroristic Threat (vt>62)	Fel G	11-621(a)(1)	58
Terroristic Threat (School)	Fel F	11-621(a)(2)	52
Terrorist Threat (Public Officials/Servants)	Fel G	11-1240	59
Terroristic Threat	Misd A (viol)	11-621(a)(1)	62
Theft of Firearm	Fel F	11-1451	53
Theft (\$100,000>)	Fel C	11-841	37
Theft (\$50,000-\$99,999)	Fel E	11-841	47
Theft (<\$1,000 & vt >62)	Fel G	11-841	58
Theft (vt> 62/infirm)	Fel F	11-841	52
Theft (\$1,000>)	Fel G	11-841	58
Theft (<\$1000)	Misd A (prop)	11-841	64
Theft of Computer Services (\$10,000>)	Fel D	11-933	42
Theft of Computer Services (\$5,000-\$9,999)	Fel E	11-933	47
Theft of Computer Services (\$1,000-\$4,999)	Fel F	11-933	52
Theft of Computer Services (\$500-\$999)	Fel G	11-933	59
Theft of Computer Services <\$500)	Misd A (prop)	11-933	64
Theft of Motor Vehicle	Fel G	11-841A	58
Theft of Rental Property (\$1,000>)	Fel G	11-849	58
Theft of Rental Property (<\$1,000)	Misd A (prop)	11-849	64
Threat/Coerce/Intimidate to W/D Medical Treatment	Unclass Misd	16-2513(a)	72
Threat to Public Officials	Fel G	11-1240	59
Ticket Scalping	Misd B	11-918	70
Ticket Scalping (Prior Conv)	Misd A (prop)	11-918	64
Tobacco Sales Violation: Sell/Dist to U/18	Violation	11-1116	74
Tobacco Sales Violation: Fail to Post Notice to U/18	Violation	11-1117	74
Tobacco Sales Violation: Dist. Samples/Coupons to U/18	Violation	11-1118	74
Tobacco Sales Violation: Dist. By Vending Machine	Violation	11-1119	74
Tobacco Sales Violation: Sell from Unlawful Package	Violation	11-1120	74
Tobacco Sale Violations: Penalties	Violation	11-1121	74
Tongue Splitting (Prior Conv)	Fel G	11-1114A(c)	59
Tongue Splitting 1 <sup>st</sup> Degree	Misd A (o&d)	11-1114A(a)	67
Tongue Splitting 2 <sup>nd</sup> Degree	Misd B	11-1114A(b)	70
Trade in Dog/Cat By-Products (Flesh)	Misd A (o&d)	11-1325A(b)	67
Trade in Dog/Cat By-Products (Fur/Hair)	Misd B	11-1325A(a)	70
Trade in Human Remains/Funerary Objects	Misd B	11-1333	70
Trademark Counterfeiting (No priors/<100 items/<\$2,000)	Misd A (prop)	11-926(d)(1)	64



<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
Trademark Counterfeiting (PriorConv/100-999/\$2,000-\$9,999)	Fel G	11-926(d)(2)	59
Trademark Counterfeiting (2+Conv/Mfr/1,000>/\$10,000>)	Fel E	11-926(d)(3)	47
Traffic Control Signal Preemption Device, Sale of	Title 21	21-4112A(c)	75
Trafficking in Controlled Substances	Fel B Violent	16-4753A	30
Trafficking in Food Stamps (FA/Ammo/CS)	Fel B	31-610(a)(3)	30
Transfer/Alter/Possess Food Stamps (FA/Ammo/CS)	Fel B	31-610(a)(3)	30
Transfer/Alter/Possess Food Stamps (\$500>)	Fel E	31-610(a)(1)	48
Transfer/Alter/Possess Food Stamps (<\$500)	Misd A (o&d)	31-610(a)(2)	68
Transfer BB Gun to U/16	Unclass Misd	11-1445(2)	72
Transfer Firearm Enabling Crime	Fel E Violent	11-1445(5)	44
Transfer Firearm to U/18	Fel G Violent	11-1445(4)	56
Transfer Recorded Sounds	Fel G	11-920	59
Trespass, Intent to Peep	Misd B	11-820	70
Unauthorized Computer Access (\$10,000>)	Fel D	11-932	42
Unauthorized Computer Access (\$5,000-\$9,999)	Fel E	11-932	47
Unauthorized Computer Access (\$1,000-\$4,999)	Fel F	11-932	52
Unauthorized Computer Access (\$500-\$999)	Fel G	11-932	59
Unauthorized Computer Access (<\$500)	Misd A (prop)	11-932	64
Unauthorized Electronic Mail (\$10,000>)	Fel D	11-937	42
Unauthorized Electronic Mail (\$5,000-\$9,999)	Fel E	11-937	47
Unauthorized Electronic Mail (\$1,000-\$4,999)	Fel F	11-937	52
Unauthorized Electronic Mail (\$500-\$999)	Fel G	11-937	59
Unauthorized Electronic Mail (<\$500)	Misd A (prop)	11-937	64
Unauthorized Use of Vehicle	Misd A (prop)	11-853	64
Undetectable Knives (Mfr/Import/Sell/Possess)	Fel G	11-1446A	59
Unlawful Administration Controlled Substance.	Fel G	11-626	58
Unlawful Administration Drugs	Misd A (o&d)	11-625	66
Unlawful Alteration of Vital Records	Fel G	16-3111(a)(2)	60
Unlawful Concealing Will	Fel G	11-908	58
Unlawful Conversion Benefits (\$10,000>)	Fel C	31-1006	37
Unlawful Conversion Benefits (\$500-\$9,999)	Fel E	31-1006	48
Unlawful Conversion Benefits (<\$500)	Misd A (prop)	31-1006	64
Unlawful Dealing Child Pornography (PriorConv§1109)	Fel B	11-1110	30
Unlawful Dealing Child Pornography	Fel D Violent	11-1109	39
Unlawful Dealing Dangerous Weapon	Unclass Misd	11-1445	72
Unlawful Dealing Switchblade	Unclass Misd	11-1446	72
Unlawful Dealing Knuckles/Combination Knife	Misd B	11-1452	70
Unlawful Dealing Martial Arts Throwing Star	Misd B	11-1453	70
Unlawful Dealing With Child	Misd B	11-1106	70
Unlawful Delivery Hypodermic Needles	Fel G	16-4757(d)	60
Unlawful Delivery Noncontrolled Substance	Fel D Violent	16-4752A	39
Unlawful Dissemination Gambling Info.	Misd A (o&d)	11-1411	67
Unlawful Distribution Unauth. Controlled Substance	Fel F	16-4755(a)(1)	53
Unlawful Firearm Transaction Behalf of Another	Fel F	11-1455	53
Unlawful Firearm Transaction Behalf of Another (Prior)	Fel C Violent	11-1455	34
Unlawful Grand Jury Disclosure	Misd B	11-1273	70
Unlawful Imprisonment 1 <sup>st</sup> Degree	Fel G Violent	11-782	56
Unlawful Imprisonment 2 <sup>nd</sup> Degree	Misd A (o&d)	11-781	66
Unlawful/Improper Influence	Misd A (o&d)	11-1207	67
Unlawful Operation Recording Device (Motion Picture)	Misd A (prop)	11-858(a)(2)	64
Unlawful Operation Recording Device (Still Photograph)	Misd B	11-858(a)(1)	70
Unlawful Possession Hypodermic Syringe	Unclass Misd	16-4757(c)	72
Unlawful Printing Credit Card Receipt	Unclass Misd	11-915A	72
Unlawful Sale Traffic Control Device	Title 21	21-4112A(c)	75
Unlawful Sexual Contact 1 <sup>st</sup> Degree	Fel F Violent	11-769	50
Unlawful Sexual Contact 2 <sup>nd</sup> Degree	Fel G Violent	11-768	56
Unlawful Sexual Contact 3 <sup>rd</sup> Degree	Misd A (viol)	11-767	62

<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
Unlawful Use Consumer Identification Info	Unclass Misd	11-914	72
Unlawful Use Credit Card (\$1,000> /vt>62)	Fel F	11-903	52
Unlawful Use Credit Card (<\$1,000)	Misd A (prop)	11-903	64
Unlawful Use Credit Card Info.	Unclass Misd	11-915	72
Unlawful Use of Criminal History	Misd A (o&d)	11-8523(d)	68
Unlawful Telecommunication Device (>50/2 Priors)	Fel D	11-850(b)(3)	42
Unlawful Telecommunication. Devices (10-50/Prior)	Fel F	11-850(b)(2)	52
Unlawful Telecommunication Device	Unclass Misd	11-850(b)(1)	72
Unlawful Transfer of Firearm to Child	Fel G	11-1445(4)	59
Unlawful Transfer of Firearm (Enabling Crime)	Fel E Violent	11-1445(5)	44
Use Consumer Identification Information	Unclass Misd	11-914	72
Use Credit Card (\$1,000> /vt>62)	Fel F	11-903	52
Use Credit Card (<\$1,000)	Misd A (prop)	11-903	64
Use Credit Card Info	Unclass Misd	11-915	72
Use of Criminal History	Misd A (o&d)	11-8523(d)	68
Use Illegitimate Sales Receipt/UPC Code	Misd A (prop)	11-840A	64
Use Illegitimate Sales Receipt/UPC Code(>15/>\$1,000)	Fel G	11-840A	58
Vehicle, Maintain for Illegal Use	Fel F	16-4755(a)(5)	53
Vehicular Assault 1 <sup>st</sup> Degree	Fel F Violent	11-629	50
Vehicular Assault 2 <sup>nd</sup> Degree	Misd B	11-628	70
Vehicular Homicide 1 <sup>st</sup> Degree	Fel E Violent	11-630A	44
Vehicular Homicide 2 <sup>nd</sup> Degree	Fel F Violent	11-630	50
Video Privacy Protection	Unclass Misd	11-925	72
Video Lottery Cheat Device	Misd A (prop)	11-1471/1472	64
Video Lottery Cheat Device (Prior < 3 yrs)	Fel G	11-1471/1472	59
Violation of Privacy	Misd A (o&d)	11-1335(a)(1-5, 8)	67
Violation of Privacy (Prurient Recording)	Fel G	11-1335(a)(6,7)	59
Violation of Probation, Sentencing Policy			
Vital Records, Crimes Involving (Fel)	Fel G	16-3111(a)	60
Vital Records, Crimes Involving (Misd)	Unclass Misd	16-3111(b)	72
Wearing Body Armor During Felony	Fel B Violent	11-1449	30
Wearing Disguise During Felony	Fel E	11-1239	47

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## INTRODUCTION

The Delaware Sentencing Accountability Commission (hereinafter referred to as "SENTAC") was created under Title 11, §6580 of the Delaware Code. The overall purpose of the creation of the Commission was to establish a system that emphasizes accountability of the offender to the criminal justice system and accountability of the criminal justice system to the public. In fulfillment of that purpose, the Commission created the sentencing guidelines embodied in this Benchbook. Said guidelines were approved of and implemented by Administrative Directive Seventy-Six of the Supreme Court of Delaware.<sup>1</sup> The guidelines are designed to ensure certainty and consistency of punishment commensurate with the seriousness of the offense and with due regard for resource availability and cost. However, it should be noted that Delaware's sentencing guidelines are voluntary, non-binding, and as such, in the absence of constitutional violations, are not generally subject to appeal.<sup>2</sup>

This Benchbook is designed to assist sentencing judges, prosecutors and defense attorneys in the formulation of sentences that are consistent with the goals of sentencing reform promulgated by SENTAC. Contained within are recommended sentencing ranges and statutory mandates for each offense. The overall sentencing philosophy of the General Assembly and SENTAC is that offenders should be sentenced to the least restrictive and most cost-effective sanction possible given the severity of the offense, the criminal history of the offender and the focus, which is, above all, to protect the public's safety. Other goals in order of priority include: (1) Incapacitation of the violence-prone offender; (2) restoration of the victim as nearly as possible to the victim's pre-offense status, and (3) rehabilitation of the offender. (64 Del. Laws, c. 402 § 1)

This Benchbook is revised annually to reflect legislative changes since the passage of the Truth in Sentencing Act of 1989.

### How to Use This Book

The Table of Contents appears in the front of the book and will serve to guide you to the basic categories within this book. Appearing directly after the Table of Contents is an alphabetical listing of the offenses, their classifications and the corresponding page numbers. Prior to the actual specific categories is a summary of the broad offense categories and their general respective presumptive sentences. Following that you will find the recommended sentences and sentencing mandates for each particular crime in the offense category itself. The general offense categories have been listed in the Table of Contents.

In general, presumptive sentences are based on the classification of the offense, and whether it is violent or non-violent in nature. The majority of crimes have been divided into violent and non-violent categories based upon legislative determination (Title 11, §4201(c)). The recommended penalties for violent crimes are more severe than those prescribed for non-violent crimes in the same class. All Class A Felonies have been designated as violent. All other felony classifications have been separated into violent and non-violent offenses. Whenever appropriate, sentences should reflect the objective of rehabilitation by including specific conditions of probation designed to aid in the treatment and/or vocational training of the offender.

Class A Misdemeanors have been divided into five general categories by SENTAC: Violent MA1, Escape MA2, Property MA3, Order & Decency MA4, and Controlled Substances MA5. The presumptive sentencing pages for misdemeanors share the same format as the felony offenses. Please note that some sentences require a period of time at one level to be followed by a period of time at another level. (For example: the presumptive sentence for the second conviction of a class A violent misdemeanor is up to 6 months at Level III AND up to 6 months at Level II.) The maximum fine is also included for misdemeanor offenses.

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<sup>1</sup> Sept. 15<sup>th</sup>, 1987

<sup>2</sup> *Siple v State*, 701 A.2d 79, 82-83 (Del. 1997)

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The recommended sentencing range for a particular crime classification, when aggravating or mitigating factors are not present, can be found at the beginning of the crime category. Crimes are listed in order of statute number with respect to title and section numbers, appearing as they would in the Delaware Code. When a particular offense requires specific treatment as mandated by the legislature a notation will be attached to said offense and supplementary notations will follow at the end of a given category. The presumptive sentencing range for a first conviction generally represents 25% of the statutory maximum; while serious aggravating factors may increase the penalty up to 100% of the statutory maximum. However, examples of common aggravated sentences as a result of prior criminal history, excessive cruelty or commission of the offense while under the control of the Department of Correction are contained in the box following the listing of statutes included within the offense category.

Within the Table of Contents you will find a Summary of Drug Offenses that gathers all of the drug offenses in one section of the book for ease of reference. The drug offenses are also listed in their respective offense level classifications. In addition, there is a listing of Aggravating and Mitigating Factors. You will also find the topic “Exceptional Sentences” and under that category are considerations that would take a sentence out of the normal range. Those topics include: (A) Special categories of (1) Domestic Violence and (2) Escape and (B) Habitual Criminal sentences.

Aggravating and mitigating factors are to be used to explain a sentence imposed either above or below the presumptive sentence. Other factors, which do not appear on this list, may be utilized at the discretion of the sentencing judge. Although the increased or decreased penalties for most aggravating/mitigating circumstances are not specified, the “up to 25%” increase/decrease guide should be utilized whenever suitable.

When an offender is sentenced on multiple charges, only the primary charge should carry an enhanced penalty based on prior criminal history. All other charges should receive penalties consistent with or lower than the presumptive sentence for the offense, unless aggravated by some factor specific to the individual charge. In this way, judges can impose serious penalties when necessary and construct meaningful probation sentences to follow incarceration. It should be noted that all sentences that impose a period of incarceration of one or more years at Level V, require that the court must include as part of its sentence a six-month “Reintegration Period” at Custodial Supervision Level IV (quasi-incarceration), III, or II.<sup>3</sup>

Following the Exceptional Sentences category are recommendations on the sentences appropriate for Violations of Probation. The reporting of these proceedings, along with aggravating factors, should follow the same procedures as for new offenses.

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<sup>3</sup> Title 11, §4204 (l)

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## General Sentencing Information:

### Levels of Supervision:

There are five levels of supervision in the Delaware criminal justice system as defined according to Title 11, §4204 and SENTAC policy.<sup>4</sup> They are as follows:

<b>Level I</b>	<b><i>Unsupervised:</i></b> Fine or Administrative Supervision, i.e. criminal record checks, checks to determine compliance with program completion, certification of payment of financial obligations, etc.
<b>Level II</b>	<b><i>Field supervision:</i></b> 1 to 50 hours of supervision per month. This may be accomplished by office visits or field visits and/or the imposition of special conditions such as payment of a fine.
<b>Level III</b>	<b><i>Intensive supervision:</i></b> 1 hr./day and no more than 56 hrs./wk. Level is supervised by officers carrying limited caseloads to allow sufficient time for full follow up. It may include sentencing options such as community service, payment of a fine, day reporting, curfews, etc.
<b>Level IV</b>	<b><i>Quasi-Incarceration or Partial Confinement:</i></b> Offender is placed under house arrest with electronic monitoring, a halfway house, a restitution center, a residential treatment facility, &/or a reentry program. As a result, supervision should amount to approximately 9 or more hours daily.
<b>Level V</b>	<b><i>Incarceration or Full Confinement:</i></b> Commitment to the Department of Correction for a period of incarceration with or without the imposition of a fine as provided by law.

### Probationary Sentences:

#### A.) Maximum Probationary Sentences:

1. The period of probation for violent felonies<sup>5</sup> is limited to 24 months.<sup>6</sup>
2. The period of probation for Title 16 felonies<sup>7</sup> is limited to 18 months.<sup>8</sup>
3. The period of probation for all other offenses is limited to 1 year.<sup>9</sup>

#### B.) Multiple Sentences:

In most cases, if an offender is serving more than one sentence as a result of convictions in more than one case, the offender shall not serve a consecutive period of probation or suspension in excess of the above time limitations. Instead, such probation shall be deemed to run concurrently with the previously imposed sentence of probation. However, the limitations of this section shall not apply to a sentence imposed for a conviction involving an offense committed while the offender was on probation or suspension of sentence.<sup>10</sup>

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<sup>4</sup> *Master Plan for Effective Sentencing Reform in Delaware*, SENTAC (May 1, 1986).

<sup>5</sup> Title 11, §4201(c)

<sup>6</sup> Title 11, §4333 (b)(1)

<sup>7</sup> Title 16 (Health and Safety)

<sup>8</sup> Title 11, §4333 (b)(2)

<sup>9</sup> Title 11, §4333 (b)(3)

<sup>10</sup> Title 11, §4333 (c)

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### **C.) Exceptions to the General Rules**

- 1.) The above limits do not apply to sex offenses<sup>11</sup> if the sentencing court determines on the record that a longer period of probation will reduce the likelihood of re-offending.<sup>12</sup>
- 2.) The above limits shall not apply to Title 11 violent felonies<sup>13</sup> if the sentencing court determines on the record that public safety will be enhanced as a result.<sup>14</sup>
- 3.) Limits may be exceeded if additional time is necessary in order to collect restitution, but must be served at Accountability Level I.<sup>15</sup>
- 4.) Limits may be exceeded by up to 90 days if more substance abuse treatment time is needed.<sup>16</sup>
- 5.) Total probation time cannot exceed maximum commitment time, or one year, whichever is greater.<sup>17</sup>
- 6.) Limits do not apply to the Title 11, §4204(l) sentences which provide for a six-month transition period from Level V incarceration to a lower level of supervision. The six-month transition period may be in excess of the maximum statutory sentence of imprisonment.<sup>18</sup>
- 7.) Portions of a sentence designated to be served at Accountability Level IV (quasi-incarceration) are not considered a "period of probation or suspension of sentence" as used in this section.<sup>19</sup>
- 8.) Ex Post Facto Considerations. The above sections, A, B and C (1-4), are inapplicable to sentences imposed prior to June 1, 2003 unless an application has been made to the Court by the Department of Correction for sentence modification based upon good cause and an order is entered to that effect.<sup>20</sup>

### **A Word Of Caution:**

Please remember that under the Truth in Sentencing Act, there is no parole, and all Level V sentences will be served with only very limited good time possibilities. This means that instead of serving from 25% to 50% of the sentence, a minimum of 75% will be served prior to release.

It should be noted that, absent extraordinary reasons, any Level IV (quasi-incarceration) sentence should only be imposed as an alternative to incarceration. Any person sentenced to Level IV (quasi-incarceration) should be held at Level V until space is available. If an individual can be held at Level III while awaiting Level IV (quasi-incarceration), please consider whether a Level III sentence might not be more appropriate.

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<sup>11</sup> Title 11, §761: 763 Sexual harassment, 764 Indecent Exposure 2d°, 765 Indecent Exposure 1st°, 766 Incest, 767 Unlawful Sexual Contact 3rd°, 768 Unlawful Sexual Contact 2d°, 769 Unlawful Sexual Contact 1st°, 770-773 Rape, 776 Sexual Extortion, 777 Bestiality, 778 Continuous Sexual Abuse of a Child, 779 Dangerous Crime Against a Child, 780 Female Genital Mutilation, 1108 Sexual Exploitation of a Child, 1109 Unlawful Dealing in Child Pornography, 1110 Subsequent Convictions of 1108 and 1109, 1111 Possession of Child Pornography, 1112 Sexual Offenders/Prohibitions from School Grounds, 1112A Sexual Solicitation of a Child

<sup>12</sup> Title 11, §4333 (d)(1)

<sup>13</sup> Title 11, §4201 (c)

<sup>14</sup> Title 11, §4333 (d)(2)

<sup>15</sup> Title 11, §4333 (d)(3)

<sup>16</sup> Title 11, §4333 (e)

<sup>17</sup> Title 11, §4333 (f)

<sup>18</sup> Title 11, §4333 (g)(1)

<sup>19</sup> Title 11, §4333 (g)(2)

<sup>20</sup> Title 11, §4333 (j)



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## SENTAC STATEMENT OF POLICY

1. The purposes of the Sentencing Standards are as follows: (a) To incapacitate, through incarceration, the violence prone offender and (b) To avoid, in so far as possible, the incarceration of the non-violent offender for the purposes of:
  - Enabling the offender to make any ordered restitution in a more timely manner.
  - Enabling participation in programs aimed at rehabilitation of the offender.
  - Conserving the limited incarceration facilities for use by violent felons.
2. For the purposes of sentencing, a violence-prone offender is defined as one for whom the current most serious offense is a crime included in the current list of violent crimes. (See definition sheets)
3. For the purposes of sentencing, only those offenses adjudicated at age 14 or older shall be counted in prior history.
4. For the purposes of sentencing, a conviction-free period of ten (10) years after final release from incarceration, or from date of sentence if only probation at levels I thru IV was ordered, shall be sufficient to "wash" the criminal history prior to that date. Felony A and Felony B crimes are excluded from this policy and should always be considered at time of sentencing.
5. In an instance where an offender, who is awaiting sentencing after conviction, is brought before the court and convicted of additional charges, the sentencing order may include all the offenses in a single order. The earlier unsentenced offenses shall not be considered in the prior history of the later offenses unless the later offenses occurred in the period after conviction on the earlier offenses.
6. When it can be determined that two or more prior convictions were the result of a single incident, only one conviction per incident shall be considered in reaching a decision on length of incarceration. (Example: Conviction on same date of Robbery 2 and Possession of Deadly Weapon During Commission of Felony = 1 prior violent Felony.)

**In addition to its normal definition, convictions for a single incident shall include all convictions resulting from a single indictment or information.**

7. When sentencing on multiple charges, prior criminal history should be considered only in determining sentence for the "lead" or most serious offense. Sentences for other current charges shall be calculated based on zero criminal history.
8. When sentencing on multiple charges and the lead offense is a violent felony, time for other current violent felonies will be added to Level V time. In all other instances, (e.g. misdemeanors and non-violent felonies) time will normally be added to time to be served in Levels I through III.
9. When considering multiple charges, a violent felony shall be considered to be the most serious offense, for sentence calculation purposes, even though non-violent felonies of higher classification are present.
10. When ordering a sentence, the Judge will order the offender to a specific initial level of supervision (Assessment of Risk). The judge may recommend a specific treatment program. The DOC will make every effort to assign the offender, or procure admittance into, the recommended program, or equivalent, as slots become available.
11. In those cases where the Court would consider a level IV alternative to Level V incarceration and no vacancy exists, the judge should sentence the offender to Level IV, with the proviso that the offender be held at Level V only until a Level IV facility becomes available.

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12. When a Violation of Probation is involved with sentencing for new charges, the Violation should be take precedence and disposition settled as a separate action before sentence for the new offenses is ordered.
  13. All probation sentences handed down at one time (levels I, II, and III) should in the normal case be imposed to run concurrently.
  14. All sentencing alternatives, both supervisory and treatment, in Levels III and IV shall be reserved for use in the following priority order:
    - ❖ Direct Sentence
    - ❖ Standard flow-down eligibility
    - ❖ Pretrial release
  15. Traffic offenses as listed in Del.C. Title 21, **with the exception of section 2810, Driving after Judgment Prohibited**, will not currently come under the purview of the Sentencing Standards. However, in the interest of conserving expensive and limited prison space for the violent and proven inalcitrant offender, it is strongly recommended that Title 21 offenders not be given a sentence to Level V incarceration unless they have previously been sentenced to, and failed at, supervision in Level III and Level IV, or unless incarceration is mandated by law.
  16. Repetitive criminal history, as an aggravating factor, is defined as conviction or adjudication for the same or similar offense on two or more previous occasions. **This policy is subject to the limitations outlined in Policy Nos. 3 and 4, and to the limitations outlined in the various misdemeanor presumptive sentencing standards.**
  17. Excessive cruelty, as an aggravating factor, is defined as those facts surrounding the commission of a **violent felony, which** demonstrate such a callousness and cruelty towards the victim of the offense as to shock the conscience of the court.
  18. **Aggravating factors for the use of Level V as sanction for the non-violent categories of misdemeanor should be limited to objective factors, such as:**
    - ❖ **Vulnerability of victim due to age or impairment**
    - ❖ **Lack of Amenability – If offender is or was already at or above the presumptive Level of Supervision.**
  19. When an offender is released from incarceration by any means (good time credits, conditional release, etc.) the release will be to the highest level specified by the court, **or by statute, for any unserved sentence, or portion thereof.** If no level has been specified, release will be to Level II by default.
  20. The supervisory levels (Level IV [Quasi-Incarceration]; Level III [Intensive Supervision]; etc.) refer to the perceived risk and resultant control to be exercised over the individual. The levels assigned to the various treatment programs refer to the approximate time requirement upon the individual participant. There is no defined correlation between the two. An offender at Level II may, as a result of evaluation, be assigned to any type of treatment program without affecting the supervision level. Therefore, a change in supervisory level does not require a change in treatment program.
  21. Offenders who participate in Alternative Sentencing Programs should be required to pay for the cost of the program. A sliding scale, based on ability to pay, is currently in use. Payment of the minimum fee (\$5.00 / Mo.) may be waived in case of indigence, but in such cases, the offender should be required to perform community service in its place.
  22. For purposes of determining conformance to standard, the final sentence, **after any suspensions**, is the determinant factor. For example, if a given sentence is 2 years at Level V suspended for 2 years at

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Level II, the Level II sentence is the portion which will actually be served and, therefore, the portion which will be considered as conforming (or not conforming) to the standard.

23. In those instances involving **non-violent felonies**, where a decision to incarcerate, with appropriate aggravating factors, has been made, the sentence should be **UP TO, but NOT IN EXCESS of, 25%** of the statutory maximum for the crime.
24. In those instances involving **misdemeanors**, where, due to stated aggravating factors, a decision has been reached that a sentence to incarcerate is **unavoidable**; the sentence should not exceed the **"recommended maximum"** as noted in the standards.
25. In instances when a non-TIS sentence to Level V is followed by a sentence to Level IV and/or Level III supervision, the Board of Parole may grant parole as follows:
  - a. Parole to the highest level specified by the original sentencing order. Should a violation occur during the parole period, the offender would be returned before the Board of Parole for violation of parole. Upon successful completion of the required period, the Department may, if appropriate, move the offender pursuant to Policy No. 26, **if such a move is not in conflict with the Board of Parole Order**. (Revised 9/22/98)
  - b. Offenders released upon reaching their short-time release date (conditional release) shall be released to serve the balance of the Level V sentence (i.e. conditional release supervision period) to the next highest level specified by the original court order **or other subsequent sentencing order**. If appropriate, the Department may move the offender pursuant to Policy No. 26, if such a move is not in conflict with the Board of Parole Order.
  - c. If a paroled or mandatory-released offender is serving a court-ordered Level IV or III sentence and the unexpired portion of the Level V sentence is less than one (1) year, the Board of Parole, upon application by the Department of Correction, may issue an order discharging the offender from the balance of the Level V sentence, once an equivalent period has been successfully served at Level IV or III.
26. In those cases where an offender is subject to sentences for more than one offense, and when the combined sentence to intermediate sanction at level IV is in excess of one year, including any work release time on a sentence of incarceration, the Department of Correction shall, absent specific objections from the judge(s), be permitted to move the offender, after one year, to a lower level of supervision, providing the offender has met, and continues to meet, the regulations and any special conditions placed upon him/her by the courts. Any lapse in meeting those conditions shall be grounds for a return to completion of the Level IV sentence without recourse to the courts.

In like manner, combined sentences to Level III in excess of twelve months shall be subject to movement to a lower level. Such movements, both up and down, will have no effect on the overall length of sentence, except when a formal violation report is filed with the court.
27. Any person failing to return to a Level IV facility shall be deemed to be on escape status. The facility shall cause a warrant to be issued charging the offender with Escape After Conviction and identifying him as a Level IV escapee. Any such person arrested on the warrant shall be returned to the original sentencing court for both a violation hearing and the new charge.
28. Where a defendant is directly sentenced to Level IV Work Release Center, residential treatment, or Home confinement, and has awaited placement pending slot availability at Level V for a period of 90 days or one-half of the Level IV sentence (whichever is less), the department may place the individual at Level III Day Reporting Center, evaluation Phase, or another comparable alternative if the DRC is not available, and the department shall make appropriate sentence modification recommendations to the sentencing judge upon completion of that evaluation.

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29. Level IV, work release center or halfway house, is deemed quasi-incarceration. A defendant serving a sentence at Level IV, work release or halfway house, i.e., quasi-incarceration, is entitled to earn "good time credits" pursuant to 11 Del. C s4381(b) and (c).

30. It is further the policy of SENTAC that individuals sentenced to Level IV (any variation), who must serve a term at Level V awaiting placement at Level IV, shall, during the time served with good conduct at Level V, be awarded good time pursuant to 11 Del. C. S4381(b)(2).

It is the policy of SENTAC that the program entitled "Live Out" meets the definition and requirements of a Level IV sentence and may be imposed as a level IV sanction during the last 60 days of an individual's (direct or flowdown) Level IV sentence as an aid to reintegration into the community.

31. Any person arrested on a charge of escape from any Correctional facility, including both Level V and Level IV facilities, should be returned by the court to a Level V secured facility pending such hearings as may ensue from the charge. Persons charged with such escapes should not be released on bond.

32. With regard to sentences of incarceration conditioned by section 4204(k) of Title 11, as amended in 1997, it shall be understood that such sentences are to be served in their entirety at level V, and that there shall be no diminution of such sentence by any of the normally available early release devices, including (but not limited to) good time credits, furlough, work release or community transition. Because such sentences add significant complexity to the management of the population of incarcerated offenders, and, if used indiscriminately, would substantially increase the prison population, Section 4204(k) should be used by judges only in exceptional circumstances.

33. Since imposition of a sentence pursuant to 11 Del C., sec 4204(k) is, in effect, a departure from the presumptive sentencing guidelines; the reason for use of Sec 4204(k) must be stated on the record and included in the sentencing order. When Section 4204(k) is used with a sentence for an escape-related offense, the reasons for its use are self explanatory and need not be stated on the record or sentencing order.

Please familiarize yourself with the above policies and follow them, insofar as possible, in each and every case. If questions should arise, contact either a member of the Commission or the SENTAC Coordinator, Jennifer Powell, Esq., at: (302) 577-5033 or [Jennifer.Powell@state.de.us](mailto:Jennifer.Powell@state.de.us).

## MEMBERS OF THE SENTENCING ACCOUNTABILITY COMMISSION

Description of Commissioner Position	Commission Member:
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	Chair: Honorable William C. Carpenter, Jr.
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	Honorable T. Henley Graves
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	Honorable Alan G. Davis
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	Honorable Chandlee Johnson Kuhn
The Attorney General or the Attorney General's designee;	Honorable Carl Danberg
The Public Defender or the Public Defender's designee;	Honorable Lawrence M. Sullivan
The Commissioner of Corrections or the Commissioner of Corrections' designee;	Honorable Stanley W. Taylor
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 2 to be appointed by the Governor	Bernard Pepukayi, Esq.
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices 1 by the Pres. Pro Tempore of the Senate	Honorable Jerome O. Herlihy
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 2 to be appointed by the Governor	Martin W. Johnson, III Chief Delaware Police Chief's Council
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 1 by the Speaker of the House	Colonel Thomas Macleish

## SUMMARY OF PRESUMPTIVE SENTENCES

Crime Classification	Presumptive Sentence	Statutory	Page Ref.
<b>Felonies</b>			
Class A (Other than Murder)	15 yrs @ Level V	15 yrs. to Life	27
Class B	2 to 5 yrs (1 <sup>st</sup> 2 yrs @ Level V)	2 to 25 yrs	29
Class C (Violent)	0 to 30 m @ Level V	0 to 15 yrs	34
Class C (Nonviolent)	0 to 1 yr @ Level V	0 to 15 yrs	37
Class D (Violent)	0 to 2 yrs @ Level V	0 to 8 yrs	39
Class D (Nonviolent)	0 to 12 m @ Level II or III	0 to 8 yrs	42
Class E (Violent)	0 to 15 m @ Level V	0 to 5 yrs	44
Class E (Nonviolent)	0 to 12 m @ Level II	0 to 5 yrs	47
Class F (Violent)	0 to 9 m @ Level V	0 to 3 yrs	50
Class F (Nonviolent)	0 to 12 m for Title 11; 0 to 18 m for Title 16 @ Level II	0 to 3 yrs	52
Class G (Violent)	0 to 6 m @ Level V Title 16, §§4767,4768: 3-9 m @ Level V	0 to 2 yrs	56
Class G (Nonviolent)	0 to 12 m @ Level II	0 to 2 yrs	58
<b>Misdemeanors</b>			
Class A (Violent) MA1	0 to 12 m @ Level II	0 to 1 yr	62
Class A (Escape) MA2	0 to 3 m @ Level IV	0 to 1 yr	63
Class A (Property) MA3	0 to 12 m @ Level I	0 to 1 yr	64
Class A (Order/Decency) MA4	0 to 12 m @ Level I	0 to 1 yr	66
Class A (Controlled Substance)	16-4764: Minimum 18 m @ Level I (7/12/05) 1 <sup>st</sup> Offense w/out waiver: 12m @Level II	0 to 1 yr	69
Class B	Fine, Costs & Restitution	0 to 6 m.	70
Unclassified	Fine, Costs & Restitution	0 to 30 d	72
Violations	Fine, Costs & Restitution	\$0 to \$345	74
<b>Habitual Criminal</b>	Up to Life	Up to Life	102
<b>Violation of Probation</b>	1 Level Higher	1 Level Higher	104



## **Class A Felony**

### **Violent (FAV):**

<b>Sentence Range (Violent Category) FAV (Exclusive of 1<sup>st</sup> Degree Murder (11-4209))</b>	
Statutory Range	15 yrs to life (First 15 yrs @ Level V may not be suspended. 11-4205(d))
Presumptive Sentence	15 yrs @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

### **Crimes in Category:**

<b>11-634</b>	<b>Child Murder by Abuse/Neglect 1<sup>st</sup> Degree</b> (a) Reckless: Death of Vt<14 y.oa. by (1) abuse/ neglect/ (2) previous pattern
<b>11-635</b>	<b>Murder 2<sup>nd</sup> Degree (see note)</b> (1) Reckless:Cruel,Wicked,DepravedIndiff/ (2) Neg: Comm.Fel
<b>11-636</b>	<b>Murder 1<sup>st</sup> Degree (see note)</b> (a)(1)Intentional/ (2)Reckless:Comm.Fel/ (3)Causes Suicide by Force/ (4)Reckless: Death LEO, CO, FF/ (5)Death Detonation/ (6)Prevent Arrest
<b>11-773</b>	<b>Rape 1<sup>st</sup> Degree (see note)</b> (a)(1)W/out Consent & SeriousInjury/ (2)Comm.Crime/ (3)DeadlyW/ (4)Principle-Accomp/ (5)Vt<12,D>18/ (6)Vt<16 & D=Trust
<b>11-1304</b>	<b>Hate Crime (Underlying Offense: Class A Felony) (see note)</b>
<b>11-1339</b>	<b>Adulteration: Death</b>
<b>16-1136(a)</b>	<b>Abuse/Neglect of Patient: Death</b>
<b>31-3913(c)</b>	<b>Abuse/Neglect of Infirm Adult: Death</b>

<b>Sentences For Prior Criminal History Categories</b>	
Offense committed while on release or pending trial or sentencing	0 to 25 yrs @ Level V
Two or more prior felonies	0 to 25 yrs @ Level V
One prior violent Felony	0 to 25 yrs @ Level V
Two or more prior violent Felonies	Up to Life @ Level V
Excessive Cruelty	Up to Life @ Level V

### **Supplemental Notations for Class A Felonies:**

11-4381(a) Probation is not available for offenders sentenced to life.
All sentences for over 1 year at Level V require a six-month reintegration at Levels IV (quasi-incarceration), III, OR II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for the rehabilitation fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>11-635</b>	<b>Murder 2<sup>nd</sup> Degree.</b> <i>Reclassified in 6/2003.</i>
<b>11-636</b>	<b><u>Murder 1<sup>st</sup> Degree</u></b> <ul style="list-style-type: none"> <li>• 4209(d)(1): The following sentence was added in regard to sentencing by the court: The jury's recommendation concerning whether the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist shall be given such consideration as deemed appropriate by the Court in light of the particular circumstances or details of the commission of the offense and the character and propensities of the offender as found to exist by the Court. The jury's recommendation shall not be binding upon the Court.</li> <li>• 4209(d)(4): After the Court determines the sentence to be imposed, it shall set forth in writing the findings upon which its sentence is based. If a jury is impaneled, and if the Court's decision as to whether the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist differs from the jury's recommended finding, the Court shall also state with specificity the reasons for its decision not to accept the jury's recommendation.</li> </ul>
<b>11-773</b>	<b><u>Rape 1<sup>st</sup> Degree</u></b> <ul style="list-style-type: none"> <li>• (c) A person convicted under this section shall be sentenced to life without benefit of probation, parole or other reduction if: (1) vt&lt;16+serious injury, (2) permanent disfigures or disables (3) 3 or more vts or (4) prior conviction of unlawful sexual intercourse 1<sup>st</sup> degree, rape 1<sup>st</sup> or 2<sup>nd</sup> degree or equivalent offense</li> <li>• 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is &lt;14 yoa, then the min. man. is 25 years at Level V up to life (7/26/06)</li> </ul>
<b>11-1304(b)(4)</b>	<b><u>Hate Crime (Underlying Offense: Class A Felony)</u></b> If the underlying offense is a Class A Felony, the minimum sentence of incarceration shall be doubled.

## Class B Felony

### I.) Violent (FBV)

Sentence Range (Violent Category) FBV	
Statutory Range	2 to 25 yrs (First 2 yrs @ Level V may not be suspended. 11-4205(d))
Presumptive Sentence	2 – 5 yrs
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>(b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>(c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>(d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>(e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

### Crimes in Category

11-606	<b><u>Abuse of Pregnant Female 1<sup>st</sup> Degree</u></b> Intentionally causes termination through violence without consent
11-613	<b><u>Assault 1<sup>st</sup> Degree (see note)</u></b> (a)(1) Intentional: Serious Injury & DW/ (2)Perm.Disfiguremt/ (4)Comm.Fel+SeriousInjury/ (5)Serious Injury: LEO, FF, (6) Medical Personnel, (7)>62y.o.a (a)(3) Recklessly: Serious Injury/ (4)Comm.Fel+SeriousInjury
11-615	<b><u>Assault of Child by Abuse/Neglect</u></b> (a) Recklessly: Serious Injury of Vt<14 y.o.a. by (1)abuse/ neglect/ (2)previous pattern
11-632	<b><u>Manslaughter (see note)</u></b> (1)Recklessly: Death/ (2)Intent=SeriousInjury: Death/ (3)Intentionally: Death but Extreme Emotion/ (4)Non-therapeutic Abortion: Death/ (5)Intentionally Causes Suicide
11-633	<b><u>Child Murder by Abuse/Neglect 2<sup>nd</sup> Degree</u></b> (a)Negligently: Death of Vt<14 y.o.a. by (1)abuse, neglect/ (b)previous pattern
11-771	<b><u>Rape 3<sup>rd</sup> Degree (see note) (7/26/06)</u></b> (a)(1) Intercourse: vt<16 & D>10 yrs older/ vt<14 & D=19+ y.o.a. (a)(2) Penetration: (a) w/out consent; Comm.fel; SeriousInjury/ (b) vt<16,Comm.Fel.; injury
11-772	<b><u>Rape 2<sup>nd</sup> Degree (see note) (7/26/06).</u></b> (a)(1)Intercourse w/out consent/ (2)Penetration: (a) w/out consent & serious injury/ (b) w/out consent & Comm.Crime/ (c)vt<16 & SeriousInjury/ (d) w/out consent & DW or threat/ (e)vt<16 & DW or threat/ (f) w/out consent & Principle-accomp/ (g)vt<12 & D+18+/ (h) vt < 16 & D= trust
11-778	<b><u>Continuous Sexual Abuse of Child (see note) (7/26/06)</u></b>
11-779	<b><u>Dangerous Crime Against Child (see note) (7/26/06)</u></b>
11-783A	<b><u>Kidnapping 1<sup>st</sup> Degree</u></b> Unlawful restraint w/out voluntary release of vt unharmed prior to trial to: (1) hold vt for ransom/ (2) use vt as hostage/ (3) Comm.fel/ (4) injure or sexually abuse vt/ (5) terrorize vt or 3d party/ (6) take child<16
11-826(a)(2)	<b><u>Burglary 1<sup>st</sup> Degree (Vt&gt; 62 y.o.a.) (see note)</u></b> (a) Dwelling at night (1) armed/ (2) causes injury to nonparticipant
11-832	<b><u>Robbery 1<sup>st</sup> Degree (see note)</u></b> (a)(1)injury to nonparticipant/ (2) DW or threat of/ (3)armed & use or threat/ (4)vt>62
11-836(a)(4-6)	<b><u>Carjacking 1<sup>st</sup> Degree</u></b> (a)(4)DW or threat/ (5)Injury/ (6)Vt>62 or <14 y.o.a
11-1108	<b><u>Sexual Exploitation of Child (see note)</u></b>

11-1253	<b>Escape After Conviction</b> (Special Escape Category May Apply) (see note) Injury
11-1254(b)	<b>Assault in Detention Facility w/Serious Injury</b> (see note)
11-1304(b)(3)	<b>Hate Crime</b> (Underlying Offense: Class C Felony)
11-1304(b)(4)	<b>Hate Crime</b> (Underlying Offense: Class B Felony) (see note)
11-1447	<b>Possession of Deadly Weapon during Commission of a Felony</b> (see note)
11-1447A	<b>Possession of Firearm during Commission of a Felony</b> (see note)
11-1449	<b>Wearing Body Armor during Commission of a Felony</b> (see note)
11-1503	<b>Racketeering</b> (see note)
16-4751(c)	<b>Manufacture/Delivery Narcotic: Death</b> (see note)
16-4753A	<b>Trafficking in Controlled Substances</b> (see note)

## II.) Nonviolent (FBN)

### Crimes in Category

11-1110	<b>Unlawful Dealing Child Pornography</b> (2 <sup>nd</sup> offense of 11- 1109)
31-610(a)(3)	<b>Trafficking in Food Stamps</b> (Firearms/Ammunition/Controlled Substances) (see note)

Sentences For Prior Criminal History Categories	
Offense committed while on release or pending trial/sentencing	Up to 10 yrs at Level V
Two or more prior felonies	Up to 10 yrs at Level V
One prior violent Felony	Up to 10 yrs at Level V
Two or more prior Violent Felonies	Up to 25 yrs at Level V
Excessive Cruelty	Up to 25 yrs at Level V

### Supplemental Notations For Class B Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims' fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-613	<b>Assault 1<sup>st</sup> Degree.</b> <i>Reclassified in 6/2003</i>
11-632	<b>Manslaughter.</b> <i>Reclassified in 6/2003</i>
11-771	<b>Rape 3<sup>rd</sup> Degree</b> <ul style="list-style-type: none"> <li>(c) If a child is born as a result of offense and remains in the custody of the vt or vt's family, timely child support payments ordered by Family Ct shall be a condition of probation</li> </ul>
11-771(a)(2)	<ul style="list-style-type: none"> <li>11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is &lt;14 yoa, then the min. man. is 25 years at Level V up to life (7/26/06)</li> </ul>
11-772	<b>Rape 2<sup>nd</sup> Degree</b> <ul style="list-style-type: none"> <li>(c) Minimum mandatory sentence: 10 yrs at Level V but see below.</li> <li>11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is &lt;14 yoa, then the min. man. is 25 years at Level V up to life (7/26/06)</li> </ul>

11-778	<p><b><u>Continuous Sexual Abuse of Child</u></b>  11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is &lt;14 yoa, then the min. man. is 25 years at Level V up to life (7/26/06)</p>												
11-779	<p><b><u>Dangerous Crime Against Child</u></b></p> <ul style="list-style-type: none"> <li>• (b) Mandatory Minimum for 2<sup>nd</sup> offense= life imprisonment.</li> <li>• (c) Defendants sentenced pursuant to this statute shall be not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis until sentence is served.</li> <li>• 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is &lt;14 yoa, then the min. man. is 25 years at Level V up to life (7/26/06)</li> </ul>												
11-826(a)(2)	<p><b><u>Burglary 1<sup>st</sup> Degree (Vt &gt; 62 y.o.a.)</u></b></p> <ul style="list-style-type: none"> <li>• (b) Minimum Mandatory Sentences: (b)(1) 2 yrs at Level V or (b)(2) 4 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1<sup>st</sup> or 2<sup>nd</sup> degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable.</li> <li>• (c) Sentencing provisions equally applicable to Attempt</li> </ul> <table border="0"> <tr> <td><b>First Conviction</b></td><td>24 m. to 48 m. @ Level V</td></tr> <tr> <td><b>On release pending trial/sentence</b></td><td>36 m. to 60 m. @ Level V</td></tr> <tr> <td><b>2 or more Prior Felonies</b></td><td>48 m. to 96 m. @ Level V</td></tr> <tr> <td><b>1 Prior Violent Felony</b></td><td>48 m. to 96 m. @ Level V</td></tr> <tr> <td><b>2 or more Prior Violent Felonies</b></td><td>60 m. to 120 m. @ Level V</td></tr> <tr> <td><b>Excessive Cruelty</b></td><td>60 m. to 120 m. @ Level V</td></tr> </table>	<b>First Conviction</b>	24 m. to 48 m. @ Level V	<b>On release pending trial/sentence</b>	36 m. to 60 m. @ Level V	<b>2 or more Prior Felonies</b>	48 m. to 96 m. @ Level V	<b>1 Prior Violent Felony</b>	48 m. to 96 m. @ Level V	<b>2 or more Prior Violent Felonies</b>	60 m. to 120 m. @ Level V	<b>Excessive Cruelty</b>	60 m. to 120 m. @ Level V
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<b>2 or more Prior Violent Felonies</b>	60 m. to 120 m. @ Level V												
<b>Excessive Cruelty</b>	60 m. to 120 m. @ Level V												
11-832	<p><b><u>Robbery 1<sup>st</sup> Degree</u></b></p> <ul style="list-style-type: none"> <li>• (b) Minimum Mandatory sentence of (1) 3 years at Level V or (2) 5 years at Level V if the conviction is for an offense that was committed within 10 years of the date of a previous conviction or termination of the date of confinement from such previous conviction, whichever date is later. Sentence not subject to terms of §4215 (Previous Conviction Enhancement)</li> <li>• (c) Sentencing provisions equally applicable to Attempt.</li> <li>• Original jurisdiction over juveniles charged with Robbery 1<sup>st</sup> shifted to Superior Court with reverse amenability available. 1 year mandatory commitment for Robbery 1<sup>st</sup> involving weapons or serious physical injury or for PFDCF in Family Court.</li> </ul>												
11-1108	<p><b><u>Sexual Exploitation of Child</u></b> Any person convicted of a 2<sup>nd</sup> or subsequent violation shall be sentenced to life.(Title 11, §1110)</p>												
11-1253	<p><b><u>Escape After Conviction</u></b>  Any sentence imposed shall not run concurrently with any other sentence.</p>												
11-1254(b)	<p><b><u>Assault in Detention Facility w/Serious Injury</u></b></p> <ul style="list-style-type: none"> <li>• Minimum Mandatory Sentence: 3 yrs at Level V to begin immediately upon sentencing.</li> <li>• Such sentence shall not be suspended nor shall the Defendant be eligible for parole or probation.</li> <li>• Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed.</li> </ul>												
11-1304(b)(4)	<p><b><u>Hate Crime (Underlying Offense: Class B Felony)</u></b> If the underlying offense is a Class B Felony, the minimum sentence of incarceration shall be doubled.</p>												
11-1447	<p><b><u>Possession of Deadly Weapon during Commission of a Felony</u></b></p> <ul style="list-style-type: none"> <li>• (b) Any sentence imposed shall not be subject to suspension, good time, parole or probation.</li> <li>• (c) Any sentence imposed shall not run concurrently. The sentence imposed shall be served following the imposition of a sentence for the conviction of the felony offense.</li> <li>• (d) Juveniles over the age of 16 shall be tried as an adult, with reverse amenability available.</li> </ul>												

<b>11-1447A</b>	<p><b><u>Possession of Firearm during Commission of a Felony</u></b></p> <ul style="list-style-type: none"> <li>• (b) Minimum Mandatory Sentence= 3 years at Level V</li> <li>• (c) If conviction represents 3<sup>rd</sup> felony conviction= minimum mandatory sentence= 5 years at Level V</li> <li>• (d) Any sentence imposed shall not be subject to suspension, good time, parole or probation.</li> <li>• (f) Juveniles over the age of 15 shall be tried as an adult, with reverse amenability available</li> </ul>								
<b>11-1449</b>	<p><b><u>Wearing Body armor during Commission of a Felony</u></b></p> <ul style="list-style-type: none"> <li>• Minimum Mandatory Sentence= 3 years at Level V which shall not be subject to suspension, parole or probation</li> <li>• Any sentence shall not run concurrently.</li> <li>• The sentence imposed shall be served following the imposition of a sentence for the conviction of the felony offense</li> <li>• Juveniles over the age of 16 shall be tried as an adult, with reverse amenability available</li> </ul>								
<b>11-1503</b>	<p><b><u>Racketeering</u></b></p> <ul style="list-style-type: none"> <li>• 1504(a): Minimum fine= \$25,000</li> <li>• 1504(b): Mandatory forfeiture of property; Superior Ct shall authorize seizure by AG</li> <li>• 1504(c): In lieu of fine, Defendant may be ordered to pay 3x gross value gained or gross loss caused, whichever is greater, together with investigation, prosecution and court costs reasonably incurred.</li> </ul>								
<b>16-4751(c)</b>	<p><b><u>Manufacture/Delivery Narcotic: Death</u></b></p> <ul style="list-style-type: none"> <li>• Minimum Fine= \$10,000, Maximum Fine= \$100,000</li> <li>• 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1<sup>st</sup> conviction: minimum mandatory sentence= 6 years at Level V (2) 2<sup>nd</sup> or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended.</li> <li>• <b>16-4763(a)(1)</b> If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years.</li> <li>• <b>16-4763(a)(2)</b> If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• Title 21, §4177K: Mandatory 3 yr. driver's license revocation</li> </ul>								
<b>16-4753A</b>	<p><b><u>Trafficking in Controlled Substances</u></b></p> <ul style="list-style-type: none"> <li>• (a) Mandatory Minimum Terms of Imprisonment (Level V) and Fines:</li> </ul> <table border="0"> <tr> <td>(1) MARIJUANA</td><td>5 – 99 lbs.: 2 yrs + \$25,000 fine 100 – 499 lbs.: 4 yrs + \$50,000 fine 500+ lbs: 8 yrs + \$100,000 fine</td></tr> <tr> <td>(2) COCAINE</td><td>10 – 49 gm: 2 yrs + \$50,000 fine 50 – 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine</td></tr> <tr> <td>(3) OPIATES</td><td>2.5-9 gm: 3 yrs + \$75,000 fine 10-49 gm: 10 yrs + \$150,000 fine 50+ gm: 25 yrs + \$750,000 fine</td></tr> <tr> <td>(4) METHAMPHETAMINE</td><td>5 – 49 gm: 2 yrs + \$50,000 fine 50 – 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine</td></tr> </table>	(1) MARIJUANA	5 – 99 lbs.: 2 yrs + \$25,000 fine 100 – 499 lbs.: 4 yrs + \$50,000 fine 500+ lbs: 8 yrs + \$100,000 fine	(2) COCAINE	10 – 49 gm: 2 yrs + \$50,000 fine 50 – 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine	(3) OPIATES	2.5-9 gm: 3 yrs + \$75,000 fine 10-49 gm: 10 yrs + \$150,000 fine 50+ gm: 25 yrs + \$750,000 fine	(4) METHAMPHETAMINE	5 – 49 gm: 2 yrs + \$50,000 fine 50 – 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine
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	(5) AMPHETAMINE	5 – 49 gm: 2 yrs + \$50,000 fine 50 – 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine
	(6) PHENCYCLIDINE (PCP)	5 – 49 gm: 2 yrs + \$50,000 fine 50 – 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine
	(7) LYSERGIC ACID DIETHYLAMIDE (LSD)	50 – 99 doses/5 – 9 liquid mg: 2 yrs + \$50,000 fine 100 – 499 doses/10 – 49 liquid mg: 4 yrs + \$100,000 fine 500+ doses/50+ liquid mg: 8 yrs + \$400,000 fine
	(8) DESIGNER DRUGS	25 – 249 doses/5 – 49 gm/5 – 49 ml: 2 yrs + \$50,000 fine 250-500 doses/50-100 gm/50-100 ml – 4 yrs + \$100,000 fine 500+ doses 100+ gm/100+ ml – 8 years + \$400,000 fine
	(9) MDMA	25 – 249 doses/5 – 49 gm/5 – 49 ml: 2 yrs + \$50,000 fine 250 – 499 doses/50 – 99 gm/50 – 99 ml: 4 yrs + \$100,000 fine 500+ doses/100+ gm/100+ ml: 8 years + \$400,000 fine
	<ul style="list-style-type: none"> <li>• (b) Adjudication of guilt or imposition of sentence shall not be suspended, deferred or withheld, nor shall such person be eligible for parole or release upon good time, work release, supervised custody, furlough or any similar program prior to serving mandatory minimum term of imprisonment</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>	
31-610(a)(3)	<u><b>Trafficking in Food Stamps (Firearms/Ammunition/Controlled Substances)</b></u> May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act	

## **Class C Felony (Violent)**

### **I.) (FCV)**

<b>Sentence Range (Violent Category) FCV</b>	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 30 months @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

### **Crimes in Category**

<b>11-503</b>	<b><u>Criminal Solicitation 1<sup>st</sup> Degree</u></b> Solicit to commit Class A Felony + Solicited<18 & D >18/ Solicited<15 & D= 3+ yrs older
<b>11-605</b>	<b><u>Abuse of Pregnant Female 2<sup>nd</sup> Degree</u></b> Recklessly causes termination through violence without consent
<b>11-770</b>	<b><u>Rape 4<sup>th</sup> Degree</u></b> (a)(1) vt<16/ (2) vt<18 & D=30+, unless married/ (3)penetration (a)w/out consent or (b) vt<16/ vt>16 but< 18 & D= trust
<b>11-783</b>	<b><u>Kidnapping 2<sup>nd</sup> Degree</u></b> Unlawful restraint w/ voluntary release of vt unharmed prior to trial to: (1) hold vt for ransom/ (2) use vt as hostage/ (3) Comm.fel/ (4) injure or sexually abuse vt/ (5) terrorize vt or 3d party/ (6) take child<16
<b>11-803</b>	<b><u>Arson 1<sup>st</sup> Degree</u></b> Intentionally damage bldg by fire/explosion w/knowledge that bldg is either: (1) occupied or (2) it is within reason that it would have been
<b>11-825</b>	<b><u>Burglary 2<sup>nd</sup> Degree (Vt&gt; 62 y.o.a.) (see note)</u></b> (a)(1) Dwelling/ (a)(2) Bldg + (a) DW or (b) Injury to nonparticipant
<b>11-826</b>	<b><u>Burglary 1<sup>st</sup> Degree (see note)</u></b> (a) Dwelling at night (1) armed/ (2) causes injury to nonparticipant
<b>11-836(a)(1-3)</b>	<b><u>Carjacking 1<sup>st</sup> Degree</u></b> (a)(1) Class D Felony or higher/ (2) DUI/ (3) Drug Offense
<b>11-1112A</b>	<b><u>Child Sex Solicitation</u></b>
<b>11-1253</b>	<b><u>Escape After Conviction</u> (Special Escape Category May Apply)(see note)</b> Force/Threat/Deadly Weapon
<b>11-1304(b)(3)</b>	<b><u>Hate Crime (Underlying offense: Class D Felony)</u></b>
<b>11-1312A</b>	<b><u>Stalking w/ Deadly Weapon (see note)</u></b>
<b>11-1353</b>	<b><u>Promoting Prostitution 1<sup>st</sup> Degree</u></b> (1) Compels or profits by force or intimidation/ (2) Profits by prostitute < 16 y.o.a
<b>11-1455</b>	<b><u>Firearm Transaction on Behalf of Another (Prior Conviction)</u></b>
<b>16-4751(a)</b>	<b><u>Manufacture/Delivery/PWI Schedule I,II Narcotic (see note)</u></b>
<b>16-4761(a)(1)</b>	<b><u>Distribution of Schedule I or II Narcotic to u/21 y.o.a. (see note)</u></b>
<b>31-3913(b)</b>	<b><u>Exploitation of Infirm Adult (&gt;\$50,000/Prior Conviction)</u></b>

<b>Sentences For Prior Criminal History Categories</b>	
While on release or pending trial or sentencing	Up to 5 years @Level V
Two or more prior felonies	Up to 5 years @ Level V
One prior Violent felony	Up to 5 years @ Level V
Two or more prior violent felonies	Up to 10 years @ Level V
Excessive cruelty	Up to 10 years @ Level V

### Supplemental Notations for Class C Violent Felonies

If crime is secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims' fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>11-825</b>	<p><b><u>Burglary 2<sup>nd</sup> Degree (Vt &gt; 62 y.o.a.)</u></b></p> <ul style="list-style-type: none"> <li>(b) Minimum Mandatory Sentences: (1) 1 yr. at Level V or (2) 3 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1<sup>st</sup> or 2<sup>nd</sup> degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable.</li> <li>(c) Sentencing provisions equally applicable to Attempt</li> </ul> <table> <tr> <td><b>First Conviction</b></td><td>12 m. to 36 m. @ Level V</td></tr> <tr> <td><b>On release pending trial/sentence</b></td><td>18 m. to 36 m. @ Level V</td></tr> <tr> <td><b>2 or more Prior Felonies</b></td><td>36 m. to 72 m. @ Level V</td></tr> <tr> <td><b>1 Prior Violent Felony</b></td><td>36 m. to 72 m. @ Level V</td></tr> <tr> <td><b>2 or more Prior Violent Felonies</b></td><td>48 m. to 96 m. @ Level V</td></tr> <tr> <td><b>Excessive Cruelty</b></td><td>48 m. to 96 m. @ Level V</td></tr> </table>	<b>First Conviction</b>	12 m. to 36 m. @ Level V	<b>On release pending trial/sentence</b>	18 m. to 36 m. @ Level V	<b>2 or more Prior Felonies</b>	36 m. to 72 m. @ Level V	<b>1 Prior Violent Felony</b>	36 m. to 72 m. @ Level V	<b>2 or more Prior Violent Felonies</b>	48 m. to 96 m. @ Level V	<b>Excessive Cruelty</b>	48 m. to 96 m. @ Level V
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<b>11-826</b>	<p><b><u>Burglary 1<sup>st</sup> Degree</u></b></p> <ul style="list-style-type: none"> <li>(b) Minimum Mandatory Sentences: (b)(1) 2 yrs at Level V or (b)(2) 4 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1<sup>st</sup> or 2<sup>nd</sup> degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable.</li> <li>(c) Sentencing provisions equally applicable to Attempt</li> <li>Presumptive sentences:</li> </ul> <table> <tr> <td><b>First Conviction</b></td><td>24 m. to 48 m. @ Level V</td></tr> <tr> <td><b>On release pending trial/sentence</b></td><td>36 m. to 60 m. @ Level V</td></tr> <tr> <td><b>2 or more Prior Felonies</b></td><td>48 m. to 96 m. @ Level V</td></tr> <tr> <td><b>1 Prior Violent Felony</b></td><td>48 m. to 96 m. @ Level V</td></tr> <tr> <td><b>2 or more Prior Violent Felonies</b></td><td>60 m. to 120 m. @ Level V</td></tr> <tr> <td><b>Excessive Cruelty</b></td><td>60 m. to 120 m. @ Level V</td></tr> </table>	<b>First Conviction</b>	24 m. to 48 m. @ Level V	<b>On release pending trial/sentence</b>	36 m. to 60 m. @ Level V	<b>2 or more Prior Felonies</b>	48 m. to 96 m. @ Level V	<b>1 Prior Violent Felony</b>	48 m. to 96 m. @ Level V	<b>2 or more Prior Violent Felonies</b>	60 m. to 120 m. @ Level V	<b>Excessive Cruelty</b>	60 m. to 120 m. @ Level V
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<b>Excessive Cruelty</b>	60 m. to 120 m. @ Level V												
<b>11-1253</b>	<p><b><u>Escape After Conviction</u></b></p> <p>Any sentence imposed shall not run concurrently with any other sentence.</p>												
<b>11-1312A</b>	<p><b><u>Stalking w/ Deadly Weapon</u></b></p> <ul style="list-style-type: none"> <li>(f) If act(s) has been previously prohibited by court order or sentence, minimum mandatory sentence = 6 m. at Level V; the first 6 m. of sentence shall not be subject to suspension</li> <li>(g) If convicted of stalking w/in 5 yrs of prior stalking conviction, minimum mandatory sentence = 1 yr at Level V; the first year of sentence shall not be subject to suspension</li> </ul>												

16-4751(a)	<p><b><u>Manufacture/Delivery/PWI Schedule I,II Narcotic</u></b></p> <ul style="list-style-type: none"> <li>• Minimum Fine= \$5,000, Maximum Fine= \$50,000</li> <li>• 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1<sup>st</sup> conviction: minimum mandatory sentence= 6 years at Level V (2) 2<sup>nd</sup> or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended.</li> <li>• <b>16-4763(a)(1)</b> If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum penalty is increased to 10 years.</li> <li>• <b>16-4763(a)(2)</b> If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum penalty is increased to 5 yrs.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• Title 21, §4177K: Mandatory 3 yr. driver's license revocation</li> </ul>
16-4761(a)(1)	<p><b><u>Distribution of Schedule I or II Narcotic to u/21 y.o.a.</u></b></p> <ul style="list-style-type: none"> <li>• (a)(3)If the recipient of the controlled substance/counterfeit is under <u>16 y.o.a.</u>, the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• (a)(3)If the recipient of the controlled substance/counterfeit is under <u>14 y.o.a.</u>, the mandatory minimum sentence = 2 yrs. At Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• If the Defendant is over 18 y.o.a. and uses, solicits, directs, hires or employs a person under 18 y.o.a. to commit violation of subchapter IV or V, the maximum sentence consists of 10 years at Level V and a \$250,000 fine.</li> <li>• <b>16-4763(a)(1)(f)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum penalty is increased to 17 yrs</li> <li>• <b>16-4763(a)(2)(d)</b> If previous conviction under §§4751,4752,4753A or 4761, mandatory minimum imprisonment is 10 yrs</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>

## **Class C Felony (Nonviolent)**

### **II.) (FCN)**

<b>Sentence Range (Nonviolent Category) FCN</b>	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	0 to 1 yr @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

### **Crimes in Category**

11-841(3)(b)	Theft (> \$100,000) (see note)
11-907B(b)	Criminal Impersonation of a Police Officer w/Injury or Felonies (see note)
11-913A(c)(3)	Health Care Fraud (Intended loss>\$100,000/Provider)(see note)
11-917(d)(3)	New Home Construction Fraud (Loss >\$100,000)
11-1458	Removing Firearm from a Law Enforcement Officer
16-2513(b)	Conceal/Destroy/Falsify/Forge Document Which Results in False Authorization of Maintenance Medical Treatment for Life Prolongation
16-4761A(a)(1)	Purchase Drugs from Minor (Schedule I,II/Narcotic)(see note)
31-1003	Benefit by False Representation >\$10,000 (see note)
31-1004(2)	Falsify Reimbursement Report >\$10,000 (see note)
31-1006	Unlawful Conversion of Benefits >\$10,000 (see note)

<b>Sentences For Prior Criminal History Categories</b>	
Repetitive Criminal History	Up to 24 months @ Level V
Lack of amenability to lesser sanctions	Up to 24 months @ Level V

### **Supplemental Notations for Class C Nonviolent Felonies**

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-841(3)(b)	<b>Theft (&gt;\$100,000)</b> 841(d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-907B(b)	<b>Criminal Impersonation of a Police Officer w/Injury or Felonies</b> During the commission of the offense: (1) causes injury to a nonparticipant or (2) commits a Class A or Class B Felony or any sexual offense as defined in Title 11, §761(d)

<b>11-913A(c)(3)</b>	<b><u>Health Care Fraud (Intended loss &gt; \$100,000/Provider)</u></b> 913(c)(4): Fine may be up to 5x pecuniary benefit sought or obtained.
<b>16-4761A(a)(1)</b>	<b><u>Purchase Drugs from Minor (Schedule I, II/Narcotic)</u></b> <ul style="list-style-type: none"> <li>• (a)(3) If the recipient of the narcotic/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• (a)(3) If the recipient of the narcotic/controlled substance/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 2 yrs. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
<b>31-1003</b> <b>31-1004(2)</b> <b>31-1006</b>	<b><u>Benefit by False Representation</u></b> <b><u>Falsify Reimbursement Report</u></b> <b><u>Unlawful Conversion of Benefits</u></b> <ul style="list-style-type: none"> <li>• 31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State</li> <li>• 31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.</li> </ul>

## Class D Felony (Violent)

### I.) (FDV)

Sentence Range (Violent Category) FDV	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 2 years @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>(b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>(c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>(d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>(e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

11-612	<b>Assault 2<sup>nd</sup> Degree</b> <u>(a)Intentionally:</u> (1) Serious Injury/ (2) Injury w/DW/ (3) Injures LEO, FF, CO/ (4) Medical personnel/ (5) Vt>62/ (6) Assaults LEO w/spray/ (7) Uses spray commit crime/ Injures State Employee/ (9) Injures Pregnant Female/ (10) Injures Vt< 6 y.o.a. <u>(a)Recklessly:</u> (1) Serious Injury/ (2) Injury w/DW/ (5) Vt>62/ (9) Injures Pregnant Female/ (10) Injures Vt< 6 y.o.a.
11-777	<b>Bestiality</b>
11-802	<b>Arson 2<sup>nd</sup> Degree</b> Intentionally damage unoccupied bldg by fire/explosion
11-825	<b>Burglary 2<sup>nd</sup> Degree (see note)</b> (a)(1) Dwelling/ (a)(2) Bldg + (a) DW or (b) Injury to nonparticipant
11-835(b)(2)	<b>Carjacking 2<sup>nd</sup> Degree</b> (a) Risk of Death or Serious Injury/(b) Compels Lawful Occupant to Leave/(c) Reckless Operation
11-846	<b>Extortion (Vt&gt;62 y.o.a.)</b>
11-1109	<b>Dealing in Child Pornography (see note)</b>
11-1250(c)	<b>Assault 1<sup>st</sup> Degree on Law Enforcement Animal</b> Intentionally or Recklessly causes Death or Serious Injury
11-1253	<b>Escape After Conviction (Special Escape Category May Apply) (see note)</b>
11-1254(a)	<b>Assault in Detention Facility: Injury (see note)</b>
11-1254(c)	<b>Assault in Detention Facility: Bodily Emissions (see note)</b>
11-1304(b)(3)	<b>Hate Crime (Underlying Offense: Class E Felony)</b>
11-1312A	<b>Stalking (Threat of Death or Serious Injury) (see note)</b>
11-1338	<b>Mfr/Transfer/Use/Poss/Transport Bomb/Incendiary Device/ Molotov Cocktail/Explosive (see note)</b>
11-1448(e)	<b>Poss/Purchase Firearm/Destructive Weapon by Prohibited Person w/Prior Conviction of Violent Felony (see note)</b>
11-1459	<b>Possession of a Firearm with Altered Serial Number</b>
11-3533	<b>Aggravated Intimidation of Witness &amp;/or Victim (see note)</b>
16-1136(a)	<b>Abuse/Neglect of Patient: Serious Injury</b>
16-4752A	<b>Delivery Noncontrolled Substance (see note)</b>
31-3913(b)	<b>Exploitation of Infirm Adult (\$10,000 - \$50,000)</b>
31-3913(c)	<b>Abuse of Infirm Adult: Bodily Harm</b>



<b>Sentences For Prior Criminal History Categories</b>	
While on release or pending trial or sentencing	Up to 4 yrs @ Level V
Two or more prior felonies	Up to 4 yrs @ Level V
One Prior violent felony	Up to 4 yrs @ Level V
Two or more prior violent felonies	Up to 8 yrs @ Level
Excessive Cruelty	Up to 8 yrs @ Level V

### Supplemental Notations for Class D Violent Felonies

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(2) Gang Participation: Conviction for a Class D Felony as a result of gang participation shall be sentenced as a Class C Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-825	<p><b><u>Burglary 2<sup>nd</sup> Degree</u></b></p> <ul style="list-style-type: none"><li>Minimum Mandatory Sentences: (b)(1) 1 yr at Level V or (b)(2) 3 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1<sup>st</sup> or 2<sup>nd</sup> degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable.</li><li>(c) Sentencing provisions equally applicable to Attempt</li><li>Minimum Presumptive Sentences:</li></ul> <table><tr><td>1<sup>st</sup> Conviction</td><td>12 to 36 m @ Level V</td></tr><tr><td>While on Release or pending Trial</td><td>18 to 36 m @ Level V</td></tr><tr><td>Two or more prior felonies</td><td>36 to 72 m @ Level V</td></tr><tr><td>One Prior Violent Felony</td><td>36 to 72 m @ Level V</td></tr><tr><td>Two or more prior violent felonies</td><td>48 to 96 m @ Level V</td></tr><tr><td>Excessive cruelty</td><td>48 to 96 m @ Level V</td></tr></table>	1 <sup>st</sup> Conviction	12 to 36 m @ Level V	While on Release or pending Trial	18 to 36 m @ Level V	Two or more prior felonies	36 to 72 m @ Level V	One Prior Violent Felony	36 to 72 m @ Level V	Two or more prior violent felonies	48 to 96 m @ Level V	Excessive cruelty	48 to 96 m @ Level V
1 <sup>st</sup> Conviction	12 to 36 m @ Level V												
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One Prior Violent Felony	36 to 72 m @ Level V												
Two or more prior violent felonies	48 to 96 m @ Level V												
Excessive cruelty	48 to 96 m @ Level V												
11-1109	<p><b><u>Dealing in Child Pornography</u></b></p> <p>2<sup>nd</sup> or subsequent conviction shall be guilty of a Class B Felony (Title 11, §1110).</p>												
11-1253	<p><b><u>Escape After Conviction</u></b></p> <p>Any sentence imposed shall not run concurrently with any other sentence.</p>												
11-1254(a)	<p><b><u>Assault in Detention Facility: Injury</u></b></p> <ul style="list-style-type: none"><li>Minimum Mandatory Sentence: 2 years at Level V to begin immediately upon sentencing.</li><li>Such sentence shall not be suspended nor shall the Defendant be eligible for parole or probation. Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed.</li></ul>												
11-1254(c)	<p><b><u>Assault in Detention Facility: Bodily Emissions</u></b></p> <ul style="list-style-type: none"><li>Minimum Mandatory Sentence: 1 yr at Level V to begin immediately upon sentencing.</li><li>Such sentence shall not be suspended nor shall the Defendant be eligible for parole or probation.</li><li>Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed.</li><li>The Defendant shall be tested for communicable diseases and the costs assessed as costs upon conviction. Results are to be communicated to the AG, the Victim, the Defendant and the medical care provider for D.O.C.</li></ul>												

11-1312A	<p><b><u>Stalking (Threat of Death or Serious Injury)</u></b></p> <ul style="list-style-type: none"> <li>• (f) If act(s) has been previously prohibited by court order or sentence, minimum mandatory sentence = 6 m. at Level V; the first 6 m. of sentence shall not be subject to suspension</li> <li>• (g) If convicted of stalking w/in 5 yrs of prior stalking conviction, minimum mandatory sentence = 1 yr at Level V; the first year of sentence shall not be subject to suspension</li> </ul>
11-1338	<p><b><u>Mfr/Transfer/Use/Poss/Transport Bomb/Incendiary Device/ Molotov Cocktail/Explosive</u></b> Any person over 16 y.o.a. who violates this section shall be charged as an adult.</p>
11-1448(e)	<p><b><u>Poss/Purchase Firearm/Destructive Device by Prohibited Person w/Prior Conviction of Violent Felony</u></b></p> <ul style="list-style-type: none"> <li>• Mandatory Minimum Sentence- (e)(1): 1 yr at Level V if previously convicted of a violent felony or (e)(2): 3 yrs at Level V if offense occurs within 10 yrs of the conviction or incarceration for any violent felony, whichever is later or (e)(3): 5 yrs at Level V if the person has been convicted on 2 or more separate occasions of any violent felony. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable.</li> </ul>
11-3533	<p><b><u>Aggravated Intimidation of Witness &amp;/or Victim</u></b> 11-3534: Sentencing provisions equally applicable to Attempt</p>
16-4752A	<p><b><u>Delivery Noncontrolled Substance</u></b></p> <ul style="list-style-type: none"> <li>• (c) Sentence is governed by the penalty for delivery of the substance which the defendant represented the noncontrolled substance to be. If no specific express or implied representation was made, the penalty shall be that for delivery of a nonnarcotic controlled substance. Section 4751(b) of Title 16 shall not apply</li> <li>• Minimum Fine= \$5,000, Maximum Fine= \$50,000</li> <li>• 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1<sup>st</sup> conviction: minimum mandatory sentence= 6 years at Level V (2) 2<sup>nd</sup> or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>

## **Class D Felony (Nonviolent)**

### **II.) (FDN)**

<b>Sentence Range (Nonviolent Category) FDN</b>	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	0 to 12 months @ Level II or III
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"><li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li><li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li><li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li><li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li></ul>

#### **Crimes in Category:**

<b>11-850(b)(3)</b>	<b>Unlawful Telecommunication Device (&gt;2 prior convictions/ 50+ devices)(see note)</b>
<b>11-854</b>	<b>Identity Theft (see note)</b>
<b>11-932</b>	<b>Unauthorized Computer Access (&gt;\$10,000)(see note)</b>
<b>11-933</b>	<b>Theft Computer Services (&gt;\$10,000) (see note)</b>
<b>11-934</b>	<b>Interruption Computer Services (&gt;\$10,000)(see note)</b>
<b>11-935</b>	<b>Misuse Computer System Information (&gt;\$10,000)(see note)</b>
<b>11-936</b>	<b>Destruction Computer Equipment (&gt;\$10,000)(see note)</b>
<b>11-937</b>	<b>Unauthorized Electronic Mail (&gt;\$10,000) (see note)</b>
<b>11-938</b>	<b>Fail to Cease Electronic Communication (&gt;\$10,000) (see note)</b>
<b>11-1223</b>	<b>Perjury 1<sup>st</sup> Degree</b> Material, False Testimony
<b>11-1457(j)(3)</b>	<b>Poss. Weapon in Safe School/Recreation Zone (Underlying Offense: Class E Fel.) (see note)</b>
<b>11-1448</b>	<b>Poss/Purchase Firearm/Ammunition by Prohibited Person (see note)</b>

<b>Sentences For Prior Criminal History Categories</b>	
Repetitive Criminal History	Up to 24 months @ Level V
Lack of amenability to lesser sanctions	Up to 24 months @ Level V

#### **Supplemental Notations for Class D Nonviolent Felonies:**

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(2) Gang Participation: Conviction for a Class D Felony as a result of gang participation shall be sentenced as a Class C Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>11-850(b)(3)</b>	<b><u>Unlawful Telecommunication Device (&gt;2 prior convictions/ 50+ devices)</u></b> <ul style="list-style-type: none"> <li>• (b)(4) A prior conviction shall consist of convictions upon separate indictments or criminal complaints</li> <li>• (b)(7) All fines shall be imposed for each unlawful telecommunication or access device</li> <li>• (b)(8) Restitution shall be ordered in the manner prescribed by §4106</li> <li>• (b)(9) The court may order forfeiture of unlawful device(s)</li> </ul>
<b>11-854</b>	<b><u>Identity Theft</u></b> Restitution shall be ordered for monetary loss including documented loss of wages and reasonable attorney's fees
<b>11-932</b> <b>11-933</b> <b>11-934</b> <b>11-935</b> <b>11-936</b> <b>11-937</b> <b>11-938</b>	<b><u>Unauthorized Computer Access</u></b> <b><u>Theft Computer Services</u></b> <b><u>Interruption Computer Services</u></b> <b><u>Misuse Computer System Information</u></b> <b><u>Destruction Computer Equipment</u></b> <b><u>Unauthorized Electronic Mail</u></b> <b><u>Fail to Cease Electronic Communication</u></b> <ul style="list-style-type: none"> <li>• (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained.</li> <li>• (g) Amounts may be aggregated to determine degree of crime.</li> <li>• (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.</li> </ul>
<b>11-1448</b>  <b>11-1448(a)(5)</b>	<b><u>Poss/Purchase Firearm/Ammunition by Prohibited Person</u></b> <ul style="list-style-type: none"> <li>• Nonviolent classification only applies to Poss/Purchase <u>Firearm</u> if no prior violent felony conviction. If prior violent felony conviction, see p.39 for §1448(e).</li> <li>• (f)(1) Any juvenile 14 y.o.a or older convicted under (a)(5) shall for a 1<sup>st</sup> offense, receive a minimum sentence of 6 m. at Level V, or, for a 2<sup>nd</sup> or subsequent offense, 1 yr of Level V, which shall not be suspended. §§4205(b) and 4215 shall not be applicable to this subsection.</li> <li>• (g) In addition, said juvenile shall be ordered after a first conviction to view a film/slide presentation related to the damage and injury caused by a gun and must meet with a victim of or family of a deceased victim of violent crime.</li> </ul>
<b>11-1457</b>	<b><u>Poss. Weapon in Safe School/Recreation Zone (Underlying Offense: Class E Fel.)</u></b> (j)(4) An elementary or secondary school student shall be expelled for 180d.

## Class E Felony (Violent)

### I.) (FEV)

<b>Sentence Range (Violent Category): FEV</b>	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	0 to 15 m. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

11-513	<b><u>Conspiracy 1<sup>st</sup> Degree</u></b> Conspires to Commit Class A Felony
11-602(b)	<b>Aggravated Menacing (Display Deadly Weapon)</b>
11-604	<b><u>Reckless Endangering 1<sup>st</sup> Degree</u></b> Conduct likely to cause death
11-630A	<b><u>Vehicular Homicide 1<sup>st</sup> Degree</u></b> (see note) DUI & criminally negligent driving: death
11-631	<b>Criminally Negligent Homicide</b>
11-776	<b>Sexual Extortion</b>
11-831	<b><u>Robbery 2<sup>nd</sup> Degree</u></b> (a) Theft w/force to (1) overcome resistance/(2) compel owner's cooperation
11-835	<b><u>Carjacking 2<sup>nd</sup> Degree</u></b> Intentional Theft Occupied Motor Vehicle by Coercion/Duress
11-846	<b>Extortion</b>
11-1304(b)(3)	<b>Hate Crime (Underlying Offense: Class F Felony)</b>
11-1339	<b>Adulteration (Injury/Illness)</b>
11-1442	<b>Carrying Concealed Deadly Weapon (Prior conviction &lt; 5 yrs)</b> (see note)
11-1444	<b>Possess Destructive Weapon</b> (see note)
11-1445(5)	<b><u>Unlawful Dealing with Dangerous Weapon</u></b> Enabling Felony/Class A Misdemeanor/Drug Crime
16-4751(b)	<b>Manufacture/Delivery/PWI of Sched. III, IV, V Narcotic</b> (see note)
16-4752(a)	<b>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance</b> (see note)
16-4752(b)	<b>Dist/Sell/Prescribe Steroids/Counterfeit for Athletics</b> (see note)
16-4754A(d)	<b>Deliver/PWI Noncontrolled Prescription Drug</b> (see note)
16-4761(a)(2)	<b>Distribution Nonnarcotic Controlled Substance to u/21 y.o.a.</b> (see note)
16-4774(c)	<b>Delivery Drug Paraphernalia to Minor</b> (see note)
31-3913(b)	<b>Exploitation of Infirm Adult (&gt;\$5,000/&lt;\$10,000)</b>

<b>Sentences For Prior Criminal History Categories</b>	
While on release or pending trial or sentencing	Up to 30 m. @ Level V
Two or more prior felonies	Up to 30 m. @ Level V
One prior violent felony	Up to 30 m. @ Level V
Two or more prior violent felonies	Up to 5 yrs @ Level V

## Supplemental Notations For Class E Violent Felonies:

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>11-630A</b>	<p><b><u>Vehicular Homicide 1<sup>st</sup> Degree</u></b></p> <ul style="list-style-type: none"> <li>(b) Minimum mandatory sentence = 2 years which shall not be subject to suspension, probation, parole, furlough, work release or supervised custody for the first 18 m.</li> <li>Every person &gt;16 y.o.a., shall be treated as an adult, subject to reverse amenability provisions, except that mandatory minimum sentences in (b) shall not apply. Incarceration, if ordered, shall be initially served in juvenile facility until 18 y.o.a and then shall continue in an adult facility.</li> </ul>
<b>11-1442</b> <b>11-1444</b>	<p><b><u>Carrying Concealed Deadly Weapon (Prior conviction &lt;5 yrs)</u></b> <b><u>Possess Destructive Weapon</u></b></p> <ul style="list-style-type: none"> <li>11-1457(b)(1&amp;2)&amp;(j)(3): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class D Violent Felony.</li> <li>11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.</li> </ul>
<b>16-4751(b)</b>	<p><b><u>Manufacture/Delivery/PWI of Sched. III, IV, V Narcotic</u></b></p> <ul style="list-style-type: none"> <li>Minimum Fine= \$3,000, Maximum Fine= \$15,000</li> <li>16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1<sup>st</sup> conviction: minimum mandatory sentence= 6 years at Level V (2) 2<sup>nd</sup> or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended.</li> <li><b>16-4763(a)(1)</b> If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years.</li> <li><b>16-4763(a)(2)</b> If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs.</li> <li><b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li><b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4752(a)</b>	<p><b><u>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance</u></b></p> <ul style="list-style-type: none"> <li>Minimum Fine=\$1,000, Maximum Fine= \$10,000/ Maximum Imprisonment= 5 yrs</li> <li>21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4752(a)</b> <b>16-4752(b)</b>	<p><b><u>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance</u></b> <b><u>Dist/Sell/Prescribe Steroids/Counterfeit for Athletics</u></b></p> <ul style="list-style-type: none"> <li><b>16-4763(a)(1)(c)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 5 yrs.</li> <li><b>16-4763(a)(2)(a)</b> If previous conviction under §§4751,4752,4753A or 4761, mandatory minimum imprisonment is 3 yrs.</li> <li><b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty</li> </ul>

	<p>shall be increased by 1 yr at Level V</p> <ul style="list-style-type: none"> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4754A(d)</b>	<p><b><u>Deliver/PWI Noncontrolled Prescription Drug</u></b></p> <ul style="list-style-type: none"> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V (continued)</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4761(a)(2)</b>	<p><b><u>Distribution Nonnarcotic Controlled Substance to u/21 y.o.a.</u></b></p> <ul style="list-style-type: none"> <li>• (a)(4) If the recipient of the nonnarcotic controlled substance/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 6 m. at Level V; which minimum sentence shall not be subject to suspension, probation or parole.</li> <li>• If the recipient is under 14 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole. (continued)</li> <li>• (c) If the Defendant is over 18 y.o.a. and uses, solicits, directs, hires or employs a person under 18 y.o.a. to commit violation of subchapter IV or V, the maximum sentence consists of 10 years at Level V and a \$250,000 fine.</li> <li>• <b>16-4763(a)(1)(e)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is increased to 9 years</li> <li>• <b>16-4763(a)(2)(c)</b> If previous conviction under §§4751,4752,4753A or 4761, the mandatory minimum imprisonment is 7 yrs</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4774(c)</b>	<p><b><u>Delivery Drug Paraphernalia to Minor</u></b></p> <p><b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</p>



## Class E Felony (Nonviolent)

### II.) (FEN)

Sentence Range (Nonviolent Category) FEN	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	0 to 12 m. @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

11-503	<b><u>Criminal Solicitation 1<sup>st</sup> Degree</u></b> Solicit to commit Class A Felony
11-780	<b>Female Genital Mutilation</b>
11-841(c)(3)(a)	<b>Theft (\$50,000-\$99,999) (see note)</b>
11-876	<b><u>Tamper w/ Public Record 1<sup>st</sup> Degree</u></b> With Intent to Defraud
11-907B	<b>Criminal Impersonation Police Officer</b>
11-913A(c)(2)	<b>Health Care Fraud (see note)</b> Intended loss= \$50,000-\$99,999/ Pattern of Claims When Offender is Provider
11-926(d)(3)	<b>Trademark Counterfeiting (2+Conv/Mfr/&gt;1,000/&gt;\$10,000+) (7/7/05)</b>
11-932	<b>Unauthorized Computer Access (\$5,000-\$9,999) (see note)</b>
11-933	<b>Theft Computer Services (\$5,000-\$9,999) (see note)</b>
11-934	<b>Interruption Computer Services (\$5,000-\$9,999) (see note)</b>
11-935	<b>Misuse Computer System Information (\$5,000-\$9,999) (see note)</b>
11-936	<b>Destruction Computer Equipment (\$5,000-\$9,999) (see note)</b>
11-937	<b>Unauthorized Electronic Mail (\$5,000-\$9,999) (see note)</b>
11-938	<b>Fail to Cease Electronic Communication (\$5,000-\$9,999) (see note)</b>
11-1100	<b>Dealing in Children</b>
11-1102(b)(1)	<b>Endanger Welfare of Child: Death</b>
11-1201	<b>Bribery of a Public Servant</b>
11-1203	<b>Receiving a Bribe by a Public Servant</b>
11-1239	<b>Wearing Disguise during Felony</b>
11-1248	<b>Obstruct Rabies Control during Emergency</b>
11-1261	<b>Bribery of a Witness</b>
11-1262	<b>Receiving a Bribe by a Witness</b>
11-1263	<b>Tamper with a Witness</b>
11-1263A(a)(2)	<b><u>Interfere with Child Witness</u></b> Fail to Produce
11-1263A(a)(3)(b)	<b><u>Interfere with Child Witness</u></b> Bribes Another: Fail to Produce
11-1263A(a)(4)(b)	<b><u>Interfere with Child Witness</u></b> Threaten Another: Fail to Produce

11-1264	Bribery of a Juror
11-1265	Receiving a Bribe by a Juror
11-1327(c)(1)	Dangerous Animal: Death of Person
11-1352	<u>Promoting Prostitution 2<sup>nd</sup> Degree</u> (1)Manages or Owns Business w/2+ prostitutes/ (2)Profits by prostitute < 18 y.o.a
11-1361	Providing Obscenity to Minor (see note)
11-1457(j)(3)	Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class F Felony) (see note)
11-3532	Intimidation of a Witness &/or Victim
16-4761A(a)(2)	Purchase Drugs from Minor (Controlled Substance/Nonnarcotic) (see note)
31-610(a)(1)	Transfer/Alter/Possess Food Stamps (\$500>) (see note)
31-1003	False Representation for Benefits (\$500-\$9,999) (see note)
31-1004(2)	Falsify Reimbursement Report (\$500-\$9,999) (see note)
31-1004(3)	Misrepresentation to Qualify as Provider (see note)
31-1004(4)	Misrepresentation as to Operation of Provider/Facility (see note)
31-1005	Kickback Schemes (see note)
31-1006	Unlawful Conversion of Benefits (\$500-\$9,999) (see note)

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 15 m. @ Level V
Lack of amenability to lesser sanctions	Up to 15 m. @ Level V

#### Supplemental Notations for Class E Nonviolent Felonies:

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-841(c)(3)(a)	<u>Theft (\$50,000-\$99,999)</u> Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-913A(c)(2)	<u>Health Care Fraud (c)(4)</u> : Fine may be up to 5x pecuniary benefit sought or obtained.
11-932	<u>Unauthorized Computer Access</u>
11-933	<u>Theft Computer Services</u>
11-934	<u>Interruption Computer Services</u>
11-935	<u>Misuse Computer System Information</u>
11-936	<u>Destruction Computer Equipment</u>
11-937	<u>Unauthorized Electronic Mail</u>
11-938	<u>Fail to Cease Electronic Communication</u>
(penalties §939)	<ul style="list-style-type: none"> <li>(f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained.</li> <li>(g) Amounts may be aggregated to determine degree of crime.</li> <li>(h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.</li> </ul>

11-1361	<b><u>Providing Obscenity to Minor</u></b> <ul style="list-style-type: none"> <li>If the obscenity involved live conduct, the business or establishment shall be closed for 6 m.</li> <li>(c) Minimum mandatory sentence for 2<sup>nd</sup> or subsequent conviction within 5 yrs.: (1) \$5,000 fine (\$10,000 if the Defendant is an organization), (2) imprisonment for a minimum of 9 m. which shall not be suspended or reduced, (3) probation for 2 yrs. and (4) the establishment shall be closed for 2 yrs.</li> </ul>
11-1457	<b><u>Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class F Felony)</u></b> (j)(4) An elementary or secondary school student shall be expelled for 180d.
16-4761A(a)(2)	<b><u>Purchase Drugs from Minor (Controlled Substance/Nonnarcotic)</u></b> <ul style="list-style-type: none"> <li>(a)(4) If the recipient of the nonnarcotic/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 6 m. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>(a)(4) If the recipient of the nonnarcotic/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 1 yrs. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li><b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li><b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
31-610(a)(1)	<b><u>Transfer/Alter/Possess Food Stamps (\$500&gt;)</u></b> May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act
31-1003 31-1004(2) 31-1004(3) 31-1004(4) 31-1005 31-1006	<b><u>Benefit by False Representation</u></b> <b><u>Falsify Reimbursement Report</u></b> <b><u>Misrepresentation to Qualify as Provider</u></b> <b><u>Misrepresentation as to Operation of Provider/Facility</u></b> <b><u>Kickback Schemes</u></b> <b><u>Unlawful Conversion of Benefits</u></b> <ul style="list-style-type: none"> <li>31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State</li> <li>31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.</li> </ul>

## **Class F Felony (Violent)**

### **I.) (FFV)**

<b>Sentence Range (Violent Category): FFV</b>	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	Up to 9 m. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

### **Crimes in Category:**

<b>11-617(b)(2)</b>	<b>Criminal Youth Gang: Recruitment/Retention:Violence or Threat</b> (7/10/06)
<b>11-629</b>	<b><u>Vehicular Assault 1<sup>st</sup> Degree</u></b> DUI & criminally negligent driving: Serious Injury
<b>11-630</b>	<b><u>Vehicular Homicide 2<sup>nd</sup> Degree</u></b> (see note) (a)(1)Criminally negligent driving: death/ (2) DUI + Negligent driving: death
<b>11-645</b>	<b>Promoting Suicide</b>
<b>11-769</b>	<b><u>Unlawful Sexual Contact 1<sup>st</sup> Degree</u></b> Causing physical Injury/ Using deadly Weapon or threat of
<b>11-1256</b>	<b>Promoting Prison Contraband: Deadly Weapon</b>
<b>11-1302</b>	<b>Riot</b>
<b>11-1304(b)(3)</b>	<b>Hate Crime (Underlying Offense: Class G Felony)</b>
<b>11-1312A</b>	<b><u>Stalking</u></b> (see note) Causing Fear/Defendant=21+ y.o.a. & Vt= <14 y.o.a.

<b>Sentences for Prior Criminal History Categories</b>	
While on release or pending trial or sentencing	Up to 18 Months @ Level V
Two or more prior felonies	Up to 18 months @ Level V
One prior violent felony	Up to 18 Months @ Level V
Two or more prior violent felonies	Up to 36 Months @ Level V

### **Supplemental Notations for Class F Violent Felonies:**

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-630	<p><b><u>Vehicular Homicide 2<sup>nd</sup> Degree</u></b></p> <ul style="list-style-type: none"> <li>• (b) Mandatory minimum sentence for violation of (a)(2) DUI: 1 yr. which shall not be subject to suspension, probation, parole, furlough, work release or supervised custody during the 1<sup>st</sup> year.</li> <li>• (c) Persons 16 y.o.a. or older, shall be treated as an adult except that mandatory minimum sentence shall not apply &amp; any period of incarceration shall be served at a juvenile facility until 18 y.o.a. at which time the person shall be transferred to an adult facility to continue their sentence</li> </ul>
11-1312A	<p><b><u>Stalking</u></b></p> <ul style="list-style-type: none"> <li>• (f) If act(s) has been previously prohibited by court order or sentence, minimum mandatory sentence = 6 m. at Level V; the first 6 m. of sentence shall not be subject to suspension</li> <li>• (g) If convicted of stalking w/in 5 yrs of prior stalking conviction, minimum mandatory sentence = 1 yr at Level V; the first year of sentence shall not be subject to suspension</li> </ul>

## Class F Felony (Nonviolent)

### II.) (FFN)

Sentence Range (Nonviolent Category) FFN	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	0 to 12 m. for Title 11 offenses; up to 18 months for Title 16 offenses @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

11-502	<b>Criminal Solicitation 2<sup>nd</sup> Degree</b> (see note) Solicit to commit Felony
11-621(a)(2)	<b>Terroristic Threat</b> (see note) False Stmt likely to: (a)evacuation/ (b)serious inconvenience/ (c)terror + School or Care Facility
11-621(a)(3)	<b>Terroristic Threat</b> (see note) Intent to Cause Belief of Substance Exposure: Death/Serious Injury
11-622	<b>Hoax Device</b>
11-651	<b>Abortion</b>
11-824	<b>Burglary 3<sup>rd</sup> Degree</b> (see note) Building
11-828	<b>Possess Burglary Tools</b>
11-840A	<b>Use of Illegitimate Sales Receipt/UPC Label (15+ Receipts/ UPC Labels/ \$1,000+)</b>
11-841(c)(2)	<b>Theft</b> (see note) \$1000+ /vt= 62+ y.o.a./Infirm/Disabled
11-850(b)(2)	<b>Unlawful Telecommunication Device (Previous Conviction/ 10-49 Devices)</b>
11-860	<b>Possess Shoplifters Tools</b>
11-861(b)(1)	<b>Forgery 1<sup>st</sup> Degree</b> (see note) Money/Stamps/Stocks/Bonds etc.
11-903	<b>Unlawful Use Credit Card</b> Vt= 62+ y.o.a & >\$1,000
11-917(d)(2)	<b>New Home Construction Fraud</b> Loss= \$50,000-\$99,999
11-922(c)	<b>Improper Labeling (PriorConv 100&gt;) (see note) (7/10/06)</b>
11-932	<b>Unauthorized Computer Access (\$1,000-\$4,999) (see note)</b>
11-933	<b>Theft Computer Services (\$1,000-\$4,999) (see note)</b>
11-934	<b>Interruption Computer Services (\$1,000-\$4,999) (see note)</b>
11-935	<b>Misuse Computer System Information (\$1,000-\$4,999) (see note)</b>
11-936	<b>Destruction Computer Equipment (\$1,000-\$4,999) (see note)</b>
11-937	<b>Unauthorized Electronic Mail (\$1,000-\$4,999) (see note)</b>
11-938	<b>Fail Cease Electronic Communication (\$1,000-\$4,999) (see note)</b>

11-1111	<b>Possession of Child Pornography</b>
11-1112(a)(2)	<b>Sex Offender (Loiter w/in 500 ft School)</b>
11-1222	<b><u>Perjury 2<sup>nd</sup> Degree</u></b> Written, Material False Stmt Intended to Mislead Public Servant
11-1263A(a)(1)	<b><u>Interfere with Child Witness</u></b> Complainant removed from jurisdiction
11-1263A(a)(3)(a)	<b><u>Interfere with Child Witness</u></b> Bribe to cause Complainant's removal from jurisdiction
11-1263A(a)(4)(a)	<b><u>Interfere with Child Witness</u></b> Threat to cause Complainant's removal from jurisdiction
11-1303(3)(b)	<b>Disorderly Conduct: Funeral/Memorial Service (Prior Conv) (6/1/06)</b>
11-1325	<b><u>Cruelty to Animals (see note)</u></b> Cruelly or Unnecessarily kills or seriously injures under (b)(4) or (5)
11-1326(a)	<b><u>Fighting/Baiting Animals (see note)</u></b>
11-1327(c)(2)	<b>Dangerous Animal: Serious Injury to Person</b>
11-1351	<b><u>Promoting Prostitution 3<sup>rd</sup> Degree</u></b> Profit from prostitution
11-1448	<b>Poss/Purchase Deadly Weapon (Other than Destructive Weapon/ Firearm/Ammunition) by Prohibited Person (see note)</b>
11-1450	<b>Receiving Stolen Firearm</b>
11-1451	<b>Theft of firearm</b>
11-1454	<b>Giving Firearm to Person Prohibited</b>
11-1455	<b>Firearm Transaction on Behalf of Another (1<sup>st</sup> Offense)</b>
11-1457(j)(3)	<b>Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class G Felony) (see note)</b>
16-4755(a)(1)	<b>Illegal Distribution of Controlled Substance (see note)</b>
16-4755(a)(2)	<b>Unauthorized Manufacture/Distribution Controlled Substance (see note)</b>
16-4755(a)(4)	<b>Refusal to Allow Inspection (see note)</b>
16-4755(a)(5)	<b>Maintain Structure/Conveyance for Illegal Use/Delivery (see note)</b>
16-4756	<b>Obtain/Distribute Controlled Substance by Fraud/Theft (see note)</b>

#### Standard Sentences for Prior Criminal History Categories

Repetitive criminal history	Up to 9 m. @ Level V
Lack of amenability at lesser sanctions	Up to 9 m. @ Level V

#### Supplemental Notations for Class F Nonviolent Felony:

If crime is a secondary offense, use the non-aggravated presumptive.	
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.	
All Criminal fines require 18% surcharge for Victims fund.	
All Drug crimes require additional 15% surcharge for rehabilitation fund	
Restitution shall be ordered for losses to victim. (Title 11, §4106)	
Costs of prosecution may be ordered. (Title 11, §4204(i))	

11-502	<b><u>Criminal Solicitation 2<sup>nd</sup> Degree</u></b> Class F Felony unless the solicitor is 18 y.o.a. or older and the solicited is >18 y.o.a. or unless the solicitor is more than 3 yrs older than the solicited, who is less than 15 y.o.a. in which case, this crime is a Class D Felony.
11-621(a)(2)	<b><u>Terroristic Threat</u></b> <ul style="list-style-type: none"> <li>(c)(1) Mandatory fine: \$1,000-\$2,500 which cannot be suspended and a minimum of 100 hrs community service</li> <li>If the defendant is 17 y.o.a. or &gt; &amp; it is a first offense = Class A Misd</li> </ul>



<b>11-621(a)(3)</b>	<b><u>Terroristic Threat.</u></b> (d) Mandatory fine: \$2,000 which shall not be suspended
<b>11-824</b>	<b><u>Burglary 3<sup>rd</sup> Degree.</u></b> Presumptive sentences: First Conviction – Quasi Incarceration (Level IV) for 3 Mo. Repetitive Criminal History – Level V for 3 to 12 Mo. Lack of amenability to Lesser Sanction - Level V for 3 to 12 Mo.
<b>11-841(c)(2)</b>	<b><u>Theft.</u></b> Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
<b>11-850(b)(2)</b>	<b><u>Unlawful Telecommunication Device</u></b> <ul style="list-style-type: none"> <li>• (b)(4) A prior conviction shall consist of convictions upon separate indictments or criminal complaints (b)(7) All fines shall be imposed for each unlawful telecommunication or access device</li> <li>• (b)(8) Restitution shall be ordered in the manner prescribed by §4106</li> <li>• (b)(9) The court may order forfeiture of unlawful device(s)</li> </ul>
<b>11-861</b>	<b><u>Forgery 1<sup>st</sup> Degree.</u></b> (c) Restitution for resultant losses to all parties.
<b>11-922(c)</b>	<b><u>Improper Labeling (PriorConv 100 &gt;)</u></b> 11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.
<b>11-932</b> <b>11-933</b> <b>11-934</b> <b>11-935</b> <b>11-936</b> <b>11-937</b> <b>11-938</b> <b>(penalties §939)</b>	<b><u>Theft Computer Services</u></b> <b><u>Interruption Computer Services</u></b> <b><u>Misuse Computer System Information</u></b> <b><u>Destruction Computer Equipment</u></b> <b><u>Unauthorized Electronic Mail</u></b> <b><u>Fail to Cease Electronic Communication</u></b> <ul style="list-style-type: none"> <li>• (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained.</li> <li>• (g) Amounts may be aggregated to determine degree of crime.</li> <li>• (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.</li> </ul>
<b>11-1325</b>	<b><u>Cruelty to Animals.</u></b> (d) The Defendant shall not own or possess any animal for 15 yrs following conviction ( <i>but see</i> exceptions). Violation of this condition is punishable by a mandatory \$5,000 fine and forfeiture of the animal.
<b>11-1326(a)</b>	<b><u>Fighting/Baiting Animals</u></b> <ul style="list-style-type: none"> <li>• (c) All animals, equipment, and money shall be forfeited to the State. Animals shall be humanely disposed of.</li> <li>• (e) The Defendant shall not own or possess any animal for 15 yrs following conviction.</li> </ul>
<b>11-1448</b>          <b>11-1448(a)(5)</b>	<b><u>Poss/Purchase Deadly Weapon by Prohibited Person</u></b> <ul style="list-style-type: none"> <li>• 11-1457(b)(4)&amp;(j)(3): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class E Felony.</li> <li>• 11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.</li> </ul> <p>See pg. 39, §1448(e) for Destructive Weapon/Firearm w/Prior Violent Felony Conviction See pg. 42, §1448 for Firearm/Ammunition (No prior violent felony conviction) Poss Destructive Weapon (No Prior Conviction) should be filed under §1338</p> <ul style="list-style-type: none"> <li>• (f)(1) Any juvenile 14 y.o.a or older convicted under (a)(5) shall for a 1<sup>st</sup> offense, receive a minimum sentence of 6 m. at Level V, or, for a 2<sup>nd</sup> or subsequent offense, 1 yr of Level V, which shall not be suspended. §§4205(b) and 4215 shall not be applicable to this subsection.</li> <li>• (g) In addition, said juvenile shall be ordered after a first conviction to view a film/slide presentation related to the damage and injury caused by a gun and must meet with a victim of or family of a deceased victim of violent crime.</li> </ul>

11-1457	<p><b><u>Possession Weapon in Safe School/Recreation Zone</u></b> (Underlying Offense: Class G Felony)</p> <p>(j)(4) An elementary or secondary school student shall be expelled for 180d.</p>
16-4755(a)(1), 16-4755(a)(2), 16-4755(a)(4), 16-4755(a)(5), 16-4756	<p><b><u>Illegal Distribution of Controlled Substance , Unauthorized Manufacture/Distribution Controlled Substance , Refusal to Allow Inspection Maintain Structure/Conveyance for Illegal Use/Delivery , Obtain/Distribute Controlled Substance by Fraud/Theft</u></b></p> <ul style="list-style-type: none"> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration@Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>

## **Class G Felony (Violent)**

### **I.) (FGV)**

<b>Sentence Range (Violent Category) FGV</b>	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	0 to 6 m. @ Level V For 16-4767 & 16-4768: 3 to 9 m. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### **Crimes in Category:**

<b>11-614</b>	<b>Abuse of Sports Official (Prior Conv)(see note)</b>
<b>11-617(b)(1)</b>	<b>Criminal Youth Gang: Recruitment (7/10/06)</b>
<b>11-768</b>	<b><u>Unlawful Sexual Contact 2d Degree</u></b> Vt<16 y.o.a.
<b>11-782</b>	<b><u>Unlawful Imprisonment 1<sup>st</sup> Degree</u></b> Risk of Serious Injury
<b>11-1304(b)(2)</b>	<b>Hate Crime (Underlying Offense: Class A, B or C Misdemeanor)</b>
<b>11-1442</b>	<b>Carrying Concealed Deadly Weapon (Prior conviction &gt;5 yrs)(see note)</b>
<b>11-1445</b>	<b>Transfer Firearm to a Juvenile</b>
<b>16-1136(b)</b>	<b>Exploit Patient's Resources (\$1000+)</b>
<b>16-4761(c)</b>	<b>Hire Minor to Violate any Drug Provision (see note)</b>
<b>16-4767</b>	<b>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 1000 ft School (see note)</b>
<b>16-4768</b>	<b>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 300 ft Park/Worship (see note)</b>
<b>31-3913(b)</b>	<b>Exploitation of Infirm Adult (\$500- \$4,999)</b>

<b>Sentences for Prior Criminal History Categories</b>	
While on release or pending trial or sentence	Up to 12 months @ Level V
Two or more prior felonies	Up to 12 months @ Level V
One prior violent felony	Up to 12 months @ Level V
Two or more prior violent felonies	Up to 24 months @ Level V

#### **Supplemental Notations for Class G Violent Felony:**

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All criminal fines require 18% surcharge for Victims fund
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>11-614</b>	<b><u>Abuse of Sports Official (Prior Conv)</u></b> Mandatory Penalty: fine=>\$1,000/<\$2,350 & prohibition from participation/attending an organized sporting event for >3 m./<12 m.
<b>11-1442</b>	<b><u>Carrying Concealed Deadly Weapon Prior conviction &gt; 5 yrs)</u></b> <ul style="list-style-type: none"> <li>• 11-1457(b)(1)&amp;(j)(3): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class F Violent Felony.</li> <li>• 11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.</li> </ul>
<b>16-4761(c)</b>	<b><u>Hire Minor to Violate any Drug Provision</u></b> <ul style="list-style-type: none"> <li>• Maximum Sentence: Imprisonment= 10 yrs., Fine= \$250,000</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4767</b>	<b><u>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 1000 ft School</u></b> <ul style="list-style-type: none"> <li>• (a)(1) Narcotic: Maximum Penalty= 30 yrs imprisonment/ \$250,000 fine.</li> <li>• (a)(2) Nonnarcotic: Maximum Penalty= 15 yrs imprisonment/\$250,000 fine.</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
<b>16-4768</b>	<b><u>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 300 ft Park/Worship</u></b> <ul style="list-style-type: none"> <li>• Maximum Penalty: Imprisonment= 15 yrs/ Fine= \$250,000.</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>

## Class G Felony (Nonviolent)

### II.) (FGN)

Sentence Range (Nonviolent Category) FGN	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	0 to 12 m. @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

11-512	<b><u>Conspiracy 2<sup>nd</sup> Degree</u></b> Conspires to commit Felony
11-621(a)(1)	<b>Terroristic Threat (Vt= 62+ y.o.a.) (see note)</b>
11-621(a)(2)	<b><u>Terroristic Threat</u> (see note)</b> False Stmt likely to cause: (a) evacuation/ (b) serious inconvenience/ (c) terror
11-626	<b>Unlawful Administration Controlled Substance/Narcotic</b>
11-785	<b><u>Interfere w/Custody</u></b> Removal from State
11-801	<b><u>Arson 3<sup>rd</sup> Degree</u></b> Recklessly damage unoccupied bldg by fire/explosion
11-804	<b>Reckless Burning (\$1500+ Damage)</b>
11-811	<b>Criminal Mischief (\$1500+ Loss/Substantial Interruption)</b>
11-840	<b>Shoplift (\$1000+)</b>
11-841(c)	<b><u>Theft</u> (see note)</b> Vt= 62+ y.o.a./ Infirm Adult/ Disabled/ \$1000+
11-841A	<b>Theft: Motor Vehicle (6/20/06)</b>
11-848	<b>Misapplication of Property (\$1000+)</b>
11-849	<b>Theft of Rental Property (\$1000+)</b>
11-851	<b>Receive Stolen Property (\$1000+/2 prior convictions)</b>
11-859	<b>Larceny of Livestock (see note)</b>
11-861(b)(2)	<b><u>Forgery 2<sup>nd</sup> Degree</u> (see note)</b> Deed/Will/Commercial Instrument/Public Record/Tokens/Prescriptions
11-862	<b>Possess Forgery Devices</b>
11-878	<b>Issue False Certificate</b>
11-900	<b>Issue Bad Check (\$1000+)</b>
11-903	<b><u>Unlawful Use Credit Card</u></b> Vt= 62+ y.o.a or >\$1,000
11-907A	<b>Criminal Impersonation (Accident Related) (see note)</b>
11-908	<b>Unlawful Concealing Will</b>
11-911	<b>Fraudulent Conveyance of Public Lands</b>
11-912	<b>Fraudulent Receipt of Public Lands</b>

11-913	Insurance Fraud
11-913A	Health Care Fraud (see note)
11-916	<u>Home Improvement Fraud</u> \$500+/vt=62+y.o.a./Prior Conviction
11-917(d)(1)	New Home Construction Fraud (\$1,000-\$49,999)
11-920	Transfer of Recorded Sounds
11-922(b)	Improper Labeling (1st Offense 100 >) (see note) (7/10/06)
11-926(d)(2)	Trademark Counterfeiting(PriorConv/100-999/\$2,000-\$9,999) (7/7/05)
11-932	Unauthorized Computer Access (\$500-\$999) (see note)
11-933	Theft Computer Services (\$500-\$999) (see note)
11-934	Interruption Computer Services (\$500-\$999) (see note)
11-935	Misuse Computer System Information (\$500-\$999) (see note)
11-936	Destruction Computer Equipment (\$500-\$999) (see note)
11-937	Unauthorized Electronic Mail (\$500-\$999) (see note)
11-938	Fail Cease Electronic Communication (\$500-\$999) (see note)
11-1001	Bigamy
11-1102(b)(2)	Endanger Welfare of Child: Serious Injury
11-1102(b)(3)	Endanger Welfare of Child: Sex Offense
11-1112(a)(1)	Sex Offender (Residing w/in 500 ft of School)
11-1113	<u>Aggravated Criminal Non-Support</u> (see note) Prior Conviction/ Delinquent as to Full Amt/ \$10,000+
11-1114A(c)	<u>Tongue Splitting</u> (Prior conviction)
11-1240	Terroristic Threat to Public Officials/Servants
11-1244(b)	Hinder Prosecution of a Felony
11-1245	False Report Incident/Child Abduction (Prior Conv)(see note) (6/30/05)
11-1249	Abetting Driver's License Violation (Prior Conviction/Death)
11-1252	<u>Escape 2<sup>nd</sup> Degree</u> (Special Escape Category May Apply) Escape from detention facility or custody of DHSS or DOC
11-1257(a)	<u>Resisting Arrest With Violence</u> (6/27/06)
11-1257A	<u>Use Animal to Avoid Capture</u> Prevent Prosecution/Injures L.E.O
11-1259	Sexual Relations in Detention Facility
11-1260	Misuse of Prisoner Mail (Prior Conviction)
11-1263A(a)(1)	<u>Interfere with Child Witness</u> Removal from Jurisdiction
11-1263A(a)(3)(a)	<u>Interfere with Child Witness</u> Bribes to Cause Removal from Jurisdiction
11-1263A(a)(4)(a)	<u>Interfere with Child Witness</u> Threatens to Cause Removal from Jurisdiction
11-1269	<u>Tampering with Physical Evidence</u>
11-1312	Aggravated Harassment (Special DV Category May Apply)
11-1335(a)(6)-(7)	<u>Violation of Privacy</u> Prurient Recording w/out Consent
11-1339	Adulteration
11-1361	Obscenity (see note)
11-1442	Carry Concealed Deadly Weapon (1 <sup>st</sup> conviction)
11-1446A	Undetectable Knives (Mfr/Import/Sell/Possess) (6/30/06)
11-1448A(l)	Firearm Sale Violation: False Statement/Information
11-1448A(m)	Firearm Sale Violation (Second Offense)
11-1472	Video Lottery Cheat Device (Prior Conviction w/in 3 yrs)(see note)
11-2113(c)(1)	Breach of Release Conditions (Felony/Prior Conviction Crime)(see note)
11-4120(k)	Sex Offender (Fail to Register)
11-4121(t)	Sex Offender (Fail to Comply with Registration Mandates)

<b>11-8562(b)</b>	<b>Provide False Child Abuser Information</b>
<b>16-3111(a)</b>	<b>Crimes Regarding Vital Records (see note)</b>
<b>16-4757(d)</b>	<b>Deliver/Dispose Hypodermic Syringe (see note)</b>
<b>16-4774(b)</b>	<b>Manufacture/Deliver/PWI Drug Paraphernalia (see note)</b>

<b>Sentences For Prior Criminal History Categories</b>	
Repetitive Criminal History	Up to 6 m. @ Level V
Lack of Amenability to Lesser Sanctions	Up to 6 m. @ Level V

### Supplemental Notations for Class G Nonviolent Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>11-621(a)(1)</b> <b>11-621(a)(2)</b>	<b><u>Terroristic Threat (Vt= 62+ y.o.a.)</u></b> <b><u>Terroristic Threat</u></b> <ul style="list-style-type: none"> <li>• (c)(1) Mandatory fine: \$1,000-\$2,500 which cannot be suspended and a minimum of 100 hrs community service</li> <li>• If the defendant is 17 y.o.a. or younger, the offense is a Class A Misdemeanor</li> </ul>
<b>11-841</b>	<b><u>Theft.</u></b> (d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
<b>11-859</b>	<b><u>Larceny of Livestock.</u></b> Minimum sentence of imprisonment, if any, not subject to suspension,, probation or parole during 1 <sup>st</sup> 6 m.
<b>11-861(b)(2)</b>	<b><u>Forgery 2<sup>nd</sup> Degree.</u></b> (c) Restitution for resultant losses to all parties.
<b>11-907A</b>	<b><u>Criminal Impersonation (Accident Related).</u></b> (1) If Defendant pretended to be someone other than the driver, upon conviction, driving privileges are to be suspended by DMV for 2 yrs.
<b>11-913A</b>	<b><u>Health Care Fraud</u></b> 913(c)(4): Fine may be up to 5x pecuniary benefit sought or obtained.
<b>11-922(b)</b>	<b><u>Improper Labeling (1st Offense 100 &gt;)</u></b> 11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.
<b>11-932</b> <b>11-933</b> <b>11-934</b> <b>11-935</b> <b>11-936</b> <b>11-937</b> <b>11-938</b> <b>(penalties §939)</b>	<b><u>Unauthorized Computer Access</u></b> <b><u>Theft Computer Services</u></b> <b><u>Interruption Computer Services</u></b> <b><u>Misuse Computer System Information</u></b> <b><u>Destruction Computer Equipment</u></b> <b><u>Unauthorized Electronic Mail</u></b> <b><u>Fail to Cease Electronic Communication</u></b> <ul style="list-style-type: none"> <li>• (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained.</li> <li>• (g) Amounts may be aggregated to determine degree of crime.</li> <li>• (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.</li> </ul>



<b>11-1113</b>	<b><u>Aggravated Criminal Non-Support</u></b> <ul style="list-style-type: none"> <li>• (i) Court may ("shall" in the event support order entered) order any fine to be paid for the support of the entitled person</li> <li>• (j) Restitution shall be ordered in the amount of the total accrued arrearages</li> </ul>
<b>11-1245</b>	<b><u>False Report Incident/Child Abduction (Prior Conviction)</u></b> Minimum Mandatory sentence: Fine= \$500 or for (3)(d): \$1,000, which cannot be suspended + 100 hrs community service + reimbursement to the State/government agency for costs of investigation and/or response
<b>11-1361</b>	<b><u>Obscenity</u></b> <ul style="list-style-type: none"> <li>• If the obscenity involved live conduct, the business or establishment shall be closed for 6 m.</li> <li>• (c) Minimum mandatory sentence for 2<sup>nd</sup> or subsequent conviction within 5 yrs.: (1) \$5,000 fine (\$10,000 if the Defendant is an organization), (2) imprisonment for a minimum of 9 m. which shall not be suspended or reduced, (3) probation for 2 yrs. and (4) the establishment shall be closed for 2 yrs.</li> </ul>
<b>11-1442</b>	<b><u>Carrying Concealed Deadly Weapon (1<sup>st</sup> conviction)</u></b> <ul style="list-style-type: none"> <li>• 11-1457(b)(1)&amp;(j)(3): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class F NonViolent Felony.</li> <li>• 11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.</li> </ul>
<b>11-1472</b>	<b><u>Video Lottery Cheat Device</u></b> . Any instrumental materials shall be forfeited to the Delaware State Police, including but not limited to vehicles used for storage.
<b>11-2113(c)(1)</b>	<b><u>Breach of Release Conditions (Felony/Prior Conviction Crime)</u></b> . Maximum Penalty: Imprisonment= <5yrs &/or Fine= <\$5,000
<b>16-3111(a)</b>	<b><u>Crimes Regarding Vital Records.</u></b> Maximum Penalty: Imprisonment= 5 yrs or less; Fine= \$10,000
<b>16-4757(d)</b> <b>16-4774(b)</b>	<b><u>Deliver/Dispose Hypodermic Syringe</u></b> <b><u>Manufacture/Deliver/PWI Drug Paraphernalia</u></b> <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV

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## **Class A Misdemeanors**

### **I.) Violent (MA1)**

<b>Sentence Range (Violent Category) MA1</b>	
Statutory Range	0 to 1 yr @ Level V and up to \$2,300 Fine
Presumptive Sentence	<b>1<sup>st</sup> offense:</b> Up to 12 m. @ Level II <b>2<sup>nd</sup> offense w/in 2 yrs:</b> Up to 6 m. @ Level III & Up to 6 m. @ Level II <b>3<sup>rd</sup> offense w/in 5 yrs:</b> Up to 3 m. @ Level V & Up to 9 m @ Level II

#### **Crimes in Category**

<b>11-603</b>	<b>Reckless Endangering 2<sup>nd</sup> Degree (Special DV Category May Apply)</b>
<b>11-611</b>	<b>Assault 3<sup>rd</sup> Degree (Special DV Category May Apply)</b>
<b>11-614</b>	<b>Abuse of Sports Official (1<sup>st</sup> Offense)</b>
<b>11-621(a)(1)</b>	<b>Terroristic Threatening (Special DV Category May Apply)</b>
<b>11-766</b>	<b>Incest (Special DV Category May Apply)</b>
<b>11-767</b>	<b>Unlawful Sexual Contact 3<sup>rd</sup> Degree (SpecialDVCategory May Apply)</b>
<b>11-1250(b)</b>	<b><u>Assault 2d Degree Against Law enforcement Animal</u></b> Reckless: Risk of injury
<b>11-1271A</b>	<b>Criminal Contempt: DV Protective Order (SpecialDVCategory May Apply) (see note)</b>
<b>11-1304(b)(1)</b>	<b>Hate Crime (Underlying Offense: Violation or Unclassified Misdemeanor)</b>
<b>11-1443</b>	<b>Carrying Concealed Dangerous Instrument</b>
<b>16-1136(a)</b>	<b>Abuse/Neglect of Patient in Residential Facility</b>
<b>31-3913(a)</b>	<b>Abuse/Neglect of Infirm Adult</b>

#### **Supplemental Notations Violent Class A Misdemeanors:**

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>11-1271A</b>	<b><u>Manufacture/Deliver/PWI Drug Paraphernalia</u></b> <ul style="list-style-type: none"><li>• (c) Mandatory minimum sentence of 15 days imprisonment if contempt resulted in: (1) injury, (2) threat of Deadly Weapon or (3) 2 prior convictions this section</li><li>• (d) Minimum sentence shall not be subject to suspension, probation, parole, furlough, or suspended custody</li></ul>
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## **Class A Misdemeanors**

### **II.) Escape (MA2)**

<b>Sentence Range (Escape Category) MA2</b>	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	0 to 3 m. in quasi-incarceration (Level IV) Recommended Maximum: Up to 1 m. @ Level V

#### **Crimes in Category**

<b>11-1251</b>	<b><u>Escape 3<sup>rd</sup> Degree</u> (Special Escape Category May Apply)</b> Escape from custody including nonsecure facilities of DYRS
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#### **Supplemental Notations for Class A Misdemeanors (Escape):**

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

## Class A Misdemeanors

### III.) Property (MA3)

Sentence Range (Property Category) MA3	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	<b>1<sup>st</sup> Offense:</b> 0 to 12 m. @ Level I <b>2<sup>nd</sup> w/in 18 m:</b> 0 to 6 m. @ Level II <b>3<sup>rd</sup> w/in 3 yrs:</b> 0 to 3 m. @ Level IV (quasi-incarceration) & 0 to 9m. @ Level II <b>Recommended Maximum:</b> 15 days @ Level V

#### Crimes in Category

11-804	Reckless Burning/Exploding (< \$1500)
11-805	Cross or Religious Symbol Burning
11-811(b)(2)	Criminal Mischief (>\$1000-<\$1,500)
11-823	<u>Criminal Trespass 1<sup>st</sup> Degree</u> Dwelling/Animal Shelter, i.e. barn, stable
11-840	Shoplifting (<\$1000)
11-840A	Use of Illegitimate Sales Receipt/UPC Label
11-841	Theft (<\$1000) (see note)
11-848	Misapplication of Property (< \$1000)
11-849	Theft of Rental Property (< \$1000)
11-851	Receiving Stolen Property (< \$1000)
11-853	Unauthorized Use of a Vehicle
11-858(a)(2)	Unlawful Operation Recording Device (Motion Picture) (see note) (6/28/06)
11-861(b)(3)	Forgery 3rd Degree (see note)
11-891	Defrauding Secured Creditors
11-892	Fraud in Insolvency
11-900	Issue Bad Check (< \$1000)
11-903	Unlawful Use Credit Card (< \$1000)
11-906	Deceptive Business Practices
11-916	Home Improvement Fraud (< \$500)
11-917(d)	New Home Construction Fraud (<\$1,000)
11-918	Ticket Scalping (Prior Conviction)
11-926(d)(1)	Trademark Counterfeiting (No priors/<100 items/<\$2,000) (7/7/05)
11-932	Unauthorized Computer Access (<\$500) (see note)
11-933	Theft Computer Services (<\$500) (see note)
11-934	Interruption Computer Services (<\$500) (see note)
11-935	Misuse Computer System Information (<\$500) (see note)
11-936	Destruction Computer Equipment (<\$500) (see note)
11-937	Unauthorized Electronic Mail (<\$500) (see note)
11-938	Fail Cease Electronic Communication (<\$500) (see note)
11-1472	Video Lottery Cheat Device
16-1136(b)	Exploit Patient's Resources (<\$1000)
31-1003	False Statement to Obtain Benefits (<\$500) (see note)
31-1004(1)	False Benefit Reimbursement Statement (<\$500) (see note)
31-1006	Unlawful Conversion of Benefits (<\$500) (see note)
31-3913(b)	Exploitation of Infirm Adult (<\$500)

## Supplemental Notations for Class A Misdemeanors: Property

All Criminal fines require 18% surcharge for Victims fund.	
Restitution shall be ordered for losses to victim. (Title 11, §4106)	
Costs of prosecution may be ordered. (Title 11, §4204(i))	
<b>11-841</b>	<b><u>Theft</u></b> . (d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
<b>11-858(a)(2)</b>	<b>Unlawful Operation Recording Device (Motion Picture)</b> Notwithstanding any law to the contrary, may include a max. fine of \$50,000
<b>11-861(b)(3)</b>	<b>Forgery 3rd Degree</b> . (c) Restitution for resultant losses to all parties.
<b>11-932</b> <b>11-933</b> <b>11-934</b> <b>11-935</b> <b>11-936</b> <b>11-937</b> <b>11-938</b> <b>(penalties §939)</b>	<b><u>Unauthorized Computer Access</u></b> <b><u>Theft Computer Services</u></b> <b><u>Interruption Computer Services</u></b> <b><u>Misuse Computer System Information</u></b> <b><u>Destruction Computer Equipment</u></b> <b><u>Unauthorized Electronic Mail</u></b> <b><u>Fail to Cease Electronic Communication</u></b> <ul style="list-style-type: none"> <li>• (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained.</li> <li>• (g) Amounts may be aggregated to determine degree of crime.</li> <li>• (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.</li> </ul>
<b>31-1003</b> <b>31-1004(1)</b> <b>31-1006</b>	<b><u>False Statement to Obtain Benefits</u></b> <b><u>False Benefit Reimbursement Statement</u></b> <b><u>Unlawful Conversion of Benefits</u></b> <ul style="list-style-type: none"> <li>• 31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State</li> <li>• 31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.</li> </ul>

## Class A Misdemeanors

### IV.) Order & Decency (MA4)

Sentence Range (Order & Decency Category) MA4	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	<b>1st Offense:</b> 0 to 12 m. @ Level I <b>2nd w/in 18 m.:</b> 0 to 12m. @ Level II <b>3rd w/in 3 yrs.:</b> 0 to 6m. @ Level III & 0 to 6m. @ Level II <b>Recommended Maximum</b> Up to 15d. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

### Crimes in Category

11-501	<b><u>Criminal Solicitation 3rd Degree</u></b> Solicit to commit misdemeanor
11-511	<b><u>Conspiracy 3rd Degree</u></b> Conspires to commit misdemeanor
11-601(a)(1)	<b><u>Offensive Touching</u></b> Vt= LEO, FF, CO, Medical personnel
11-601(a)(2)	<b><u>Offensive Touching (see note)</u></b> Bodily Emissions
11-625	<b><u>Unlawfully Administer Drugs</u></b>
11-652	<b><u>Self Abortion</u></b>
11-765	<b><u>Indecent Exposure 1st Degree</u></b> Vt= <16 y.o.a.
11-781	<b><u>Unlawful Imprisonment 2nd Degree</u></b> (Special DVCategory May Apply) Knowingly restrain
11-785	<b><u>Interference with Custody</u></b> (Special DV Category May Apply)
11-791	<b><u>Coercion</u></b> (Special DV Category May Apply)
11-871	<b><u>Falsifying Business Records</u></b>
11-873	<b><u>Tampering w/ Public Records 2nd Degree</u></b>
11-877	<b><u>Offering False Instrument for Filing</u></b>
11-881	<b><u>Bribery</u></b>
11-882	<b><u>Receiving a Bribe</u></b>
11-893	<b><u>Interference Levied-Upon Property</u></b>
11-907	<b><u>Criminal Impersonation</u></b>
11-909	<b><u>Execution of Document by Deception</u></b>
11-918	<b><u>Ticket Scalping</u></b>
11-921	<b><u>Sale Transferred Recorded Sound</u></b>
11-1101	<b><u>Abandonment of Child</u></b> (Special DV Category May Apply)
11-1102	<b><u>Endanger Welfare of Child</u></b> (Special DV Category May Apply)
11-1105	<b><u>Endanger Welfare of Incompetent</u></b>
11-1113(a)	<b><u>Aggravated Criminal Non-support</u></b> (Prior Conviction) (see note)

11-1114	<b>Body Piercing &amp; Tattoos (Prior Conviction)</b>
11-1114A(a)	<b>Tongue Splitting 1st Degree</b>
11-1205	<b>Give Unlawful Gratuity</b>
11-1206	<b>Receive Unlawful Gratuity</b>
11-1207	<b>Improper Influence</b>
11-1211	<b>Official Misconduct</b>
11-1212	<b>Profiteering</b>
11-1221	<b>Perjury 3rd Degree</b> False statement under oath
11-1233	<b>Make False Written Statement</b>
11-1243	<b>Obstructing Firefighting</b>
11-1244	<b>Hinder Prosecution of Misdemeanor</b>
11-1245	<b>False Report Incident/Child Abduction (see note) (6/30/05)</b>
11-1246	<b>Compound a Crime</b>
11-1249	<b>Abetting Violation of Driver's License</b>
11-1256	<b>Promote Prison Contraband</b>
11-1257(b)	<b>Resist Arrest Without Violence</b>
11-1257A	<b>Use of Animal to Avoid Capture</b>
11-1260	<b>Misuse of Prisoner Mail</b>
11-1266	<b>Tampering w/Juror</b>
11-1267	<b>Misconduct by Juror</b>
11-1271(2-8)	<b>Criminal Contempt</b> (2)Breach of peace/ (3) Intentional disobedience/ (4)Refusal of Oath/to Answer/ (5)Publish false proceedings/ (6)Refuse Jury Service/ (7)Juror fail to attend trial/ (8)Defendant's failure to appear for criminal proceedings
11-1303(3)(a)	<b>Disorderly Conduct: y/Funeral/Memorial Service (6/1/06)</b>
11-1312A	<b>Stalking</b>
11-1325	<b>Cruelty to Animals (see note)</b>
11-1325A(b)	<b>Trade in Dog/Cat By-Products (Flesh) (see note)</b>
11-1326(b)	<b>Fighting/Baiting Animals (see note)</b> Knowledge & Presence during Preparation
11-1327	<b>Dangerous Animal</b> Injury to Person/Serious Injury or Death Animal
11-1331	<b>Desecration</b>
11-1332	<b>Abusing a Corpse</b>
11-1335(a)(1-5, 8)	<b>Violation of Privacy (6/30/06)</b> (1)Trespass to eavesdrop/ (2) Installs recording device in private place/ (3)Installs/uses recording device outside private place/ (4) Intercepts/ (5) Divulges private communication/ (8) Installs in MV electronic/mechanical tracking device
11-1340	<b>Desecration of Burial Place (see note)</b>
11-1365	<b>Obscene Literature Harmful to Minors</b>
11-1401	<b>Advancing Gambling 2nd Degree</b> Unlawful(ly) (1)Sell/dispose/PWI lottery policy or similar/ (2)Device to do same/ (3)Interest in lottery policy writing or in selling/disposing policy or similar/ (4)Device to do same
11-1402	<b>Foreign Lotteries</b>
11-1403	<b>Advancing Gambling 1st Degree</b> Unlawful(ly) (1)Keeping "books"/ (2)Owner/occupant property for purpose of bookkeeping/ (3)Recording bets/ (4)Place bets
11-1404	<b>Providing Premises for Gambling (Prior Conviction w/in 5 yrs)</b>
11-1405	<b>Possession Gambling Device</b>
11-1406	<b>Interest in Keeping Gambling Device</b>
11-1411	<b>Unlawful Dissemination Gambling Information</b>
11-1428	<b>Maintaining an Obstruction (Prior Conviction w/in 2 yrs)</b>
11-1448A(k)	<b>Improper Request/Dissemination Criminal History Check</b>



11-1448A(m)	Firearm Sale Violation
11-1456	Allow Unlawful Access to Firearm by Minor
11-1457(j)(1)	Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class B Misdemeanor) (see note)
11-8522	Refusal to Permit Photo or Fingerprints
11-8523(a)	Refusal/Neglect/Hinder Report
11-8523(d)	Unlawful Use of Criminal History Record Information
11-8562(a)	Fail to Obtain Child Sex Abuser Information
16-1136(c)	Fail to Correct Abuse/Neglect of Patient in Residential Facility
31-610(a)(2)	Transfer/Alter/Possess Food Stamps (<\$500) (see note)

**Supplemental Notations for Class A Misdemeanors (Order & Decency):**

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-601(a)(2)	<b>Offensive Touching</b> (b) The Defendant shall be tested for communicable diseases, the costs of which are to be assessed as costs of conviction. The results are to be provided to the AG, the victim, the Defendant and the D.O.C. medical provider
11-1113(a)	<b>Aggravated Criminal Non-support (Prior Conviction)</b> <ul style="list-style-type: none"> <li>(i) Court may ("shall" in the event support order entered) order any fine to be paid for the support of the entitled person</li> <li>(j) Restitution shall be ordered in the amount of the total accrued arrearages</li> </ul>
11-1245	<b>False Report Incident/Child Abduction</b> Minimum Mandatory sentence: Fine= \$500 or for (3)(d): \$1,000, which cannot be suspended + 100 hrs community service + reimbursement to the State/government agency for costs of investigation and/or response
11-1325	<b>Cruelty to Animals.</b> (c) The Defendant shall not own or possess any animal for 5 yrs following conviction ( <i>but see</i> exceptions). Violation of this condition is punishable by a mandatory \$1,000 fine and forfeiture of the animal.
11-1325A	<b>Trade in Dog/Cat By-Products.</b> (c) Defendant shall: (1) be prohibited from possessing dog/cat for 15 yrs after conviction (but see exceptions), (2) pay a fine of \$2,500 and (3) forfeit any dog/cat.
11-1326	<b>Fighting/Baiting Animals.</b> (c) All animals, equipment, devices and money shall be forfeited to the State. Forfeited animals shall be disposed of humanely.
11-1340	<b>Desecration of Burial Place.</b> Mandatory Minimum Fine= >\$1,000 up to \$10,000.
11-1457	<b>Possession Weapon in Safe School/Recreation Zone</b> (Underlying Offense: Class B Misdemeanor). (j)(4) An elementary or secondary school student shall be expelled for 180d.
31-610(a)(2)	<b>Transfer/Alter/Possess Food Stamps (&lt;\$500)</b> May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act

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## **Class A Misdemeanors**

### **V.) Controlled Substances (MA5)**

<b>Sentence Range (Controlled Substance Category) MA5</b>	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	<b>1st Offense w/16-4764 Waiver:</b> Minimum 18 m. @ Level I <i>(7/12/05)</i> <b>1st Offense w/o Waiver:</b> 12 m. @ Level II <b>2nd Offense w/in 2 Years:</b> 6 m. @ Level III & 6m. @ Level II <b>3rd Offense w/in 3 Years:</b> 6 m. @ Level V

#### **Crimes in Category**

<b>16-4740</b>	<b>Sale of Pseudoephedrine/Ephedrine</b> <i>(6/14/05)</i>
<b>16-4753</b>	<b>Possess/Use/Consumption Narcotic/Counterfeit w/out Rx</b> <b>(see note)</b>
<b>16-4755(a)(3)</b>	<b>Refuse/Fail to Make/Keep/Furnish Required Record</b> <b>(see note)</b>
<b>16-4758</b>	<b>Keeping Drugs in Original Container</b> <b>(see note)</b>
<b>16-4774(a)</b>	<b>Possession of Drug Paraphernalia</b> <b>(see note)</b>

#### **Supplemental Notations for Class A Misdemeanors (Controlled Substances):**

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Any violations of Title 16, §§4751-4761: <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V
Any offenses under Title 16, Chapter 47: <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>16-4753</b>	<b>Possess/Use/Consumption Narcotic/Counterfeit w/out Rx</b> <ul style="list-style-type: none"><li>• May qualify for First Offender Diversion Program (see §4764 for details)</li></ul>
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## **Class B Misdemeanors**

<b>Sentence Range (Class B Misdemeanors) MB</b>	
Statutory Sentence	0 to 6m. @ Level V and up to \$1,150 fine
Presumptive Sentence	1st &/or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: up to 6m. @ Level I or II

### **Crimes in Category**

<b>11-628</b>	<b><u>Vehicular Assault 2<sup>nd</sup> Degree</u></b> (see note) (1)Criminal negligence: serious injury/ (2) DUI: injury
<b>11-653</b>	<b><u>Issuing Abortion Articles</u></b>
<b>11-820</b>	<b><u>Trespass with Intent to Peep</u></b>
<b>11-858(a)(2)</b>	<b><u>Unlawful Operation Recording Device</u></b> (Still Photograph) (6/28/06)
<b>11-910</b>	<b><u>Debt Adjusting</u></b>
<b>11-918</b>	<b><u>Ticket Scalping</u></b>
<b>11-1106</b>	<b><u>Unlawful Dealing with Child</u></b>
<b>11-1113(a)</b>	<b><u>Criminal Non-support</u></b> (see note)
<b>11-1114</b>	<b><u>Body Piercing &amp; Tattoos</u></b>
<b>11-1114A(b)</b>	<b><u>Tongue Splitting 2<sup>nd</sup> Degree</u></b> Performed by doctor/dentist and recipient is: (1)under the influence/ (2)minor w/out legal guardian's consent
<b>11-1241</b>	<b><u>Refusing to Aid Police Officer</u></b>
<b>11-1248</b>	<b><u>Obstructing Control of Rabies</u></b>
<b>11-1271(1)</b>	<b><u>Criminal Contempt</u></b> Disorderly Behavior
<b>11-1273</b>	<b><u>Unlawful Grand Jury Disclosure</u></b>
<b>11-1311</b>	<b><u>Harassment</u></b> (Special DV Category May Apply)
<b>11-1313</b>	<b><u>Malicious Interference with Emergency Communications</u></b>
<b>11-1325A(a)</b>	<b><u>Trade in Dog/Cat Byproducts</u></b> (Fur/Hair)
<b>11-1333</b>	<b><u>Trading in Human Remains/Funerary Objects</u></b>
<b>11-1341</b>	<b><u>Lewdness</u></b>
<b>11-1342</b>	<b><u>Prostitution</u></b>
<b>11-1355</b>	<b><u>Permitting Prostitution</u></b>
<b>11-1452</b>	<b><u>Unlawful Dealing with Knuckles-Combination Knife</u></b> (see note)
<b>11-1453</b>	<b><u>Unlawful Dealing with Martial Arts Throwing Star</u></b> (see note)
<b>11-1457(j)(2)</b>	<b><u>Poss. Weapon in Safe School/Recreation Zone</u></b> (Underlying Offense: Unclassified Misdemeanor)(see note)
<b>16-4754</b>	<b><u>Possess/Use/Consume Controlled Substance</u></b> (Nonnarcotic)(see note)
<b>16-4754A</b>	<b><u>Possession of Noncontrolled Prescription Drug</u></b> (see note)

### **Supplemental Notations Class B Misdemeanors:**

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-628	<b><u>Vehicular Assault 2<sup>nd</sup> Degree</u></b>			
	<table> <tr> <td>Statutory Sentence</td><td>Up to 6m.; Fine up to \$1,150.</td></tr> <tr> <td>Presumptive Sentence</td><td>1<sup>st</sup> Offense: Up to 2m. @ Level V 2<sup>nd</sup> Offense w/in 2 yrs: Up to 4m. 3<sup>rd</sup> Offense w/in 5 yrs: Up to 6m.</td></tr> </table>	Statutory Sentence	Up to 6m.; Fine up to \$1,150.	Presumptive Sentence
Statutory Sentence	Up to 6m.; Fine up to \$1,150.			
Presumptive Sentence	1 <sup>st</sup> Offense: Up to 2m. @ Level V 2 <sup>nd</sup> Offense w/in 2 yrs: Up to 4m. 3 <sup>rd</sup> Offense w/in 5 yrs: Up to 6m.			
11-1113	<b><u>Criminal Non-support</u></b> <ul style="list-style-type: none"> <li>• (i) Court may ("shall" in the event support order entered) order any fine to be paid for the support of the entitled person</li> <li>• (j) Restitution shall be ordered in the amount of the total accrued arrearages</li> </ul>			
11-1452 11-1453	<b><u>Unlawful Dealing with Knuckles-Combination Knife</u></b> <b><u>Unlawful Dealing with Martial Arts Throwing Star</u></b> <ul style="list-style-type: none"> <li>• 11-1457(b)(5&amp;6)&amp;(j)(1): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class A Misdemeanor.</li> <li>• 11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.</li> </ul>			
11-1457	<b><u>Poss. Weapon in Safe School/Recreation Zone (Underlying Offense: Unclass Misdemeanor)</u></b> (j)(4) An elementary or secondary school student shall be expelled for 180d.			
16-4754	<b><u>Possess/Use/Consume Controlled Substance (Nonnarcotic)</u></b> <ul style="list-style-type: none"> <li>• May qualify for First Offender Diversion Program (see §4764)</li> <li>• <b>16-4763(a)(1)(a)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 2 yrs.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (d)</li> </ul>			
16-4754A	<b><u>Possession of Noncontrolled Prescription Drug</u></b> <ul style="list-style-type: none"> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (d)</li> </ul>			

## Unclassified Misdemeanors

Sentence Range (Unclassified Misdemeanors) UM	
Statutory Sentence	Up to 30d. @ Level V and up to \$575 fine
Presumptive Sentence	1 <sup>st</sup> or 2 <sup>nd</sup> offense: Fine, Costs, Restitution Only 3 <sup>rd</sup> Offense w/in 2 yrs:0 to 6m. @ Level I or II

### Crimes in Category

11-601	Offensive Touching (Special DV Category May Apply)
11-602	Menacing (Special DV Category May Apply)
11-627	Substances Releasing Vapors or Fumes
11-763	Sexual Harassment (Special DV Category May Apply)
11-764	Indecent Exposure 2 <sup>nd</sup> Degree
11-811(b)(3)	Criminal Mischief (<\$1000)
11-812	Graffiti and Graffiti Implements (see note)
11-822	Criminal Trespass 2 <sup>nd</sup> Degree Building/ Real Property + Fenced/ Enclosed
11-850(b)(1)	Unlawful Telecommunication Device (see note)
11-914	Unlawful Use of Consumer Identification Information
11-915	Unlawful Use of Credit Card Information
11-915A	Unlawful Printing Credit Card Receipt
11-922	Improper Labeling (<100) (see note) (7/10/06)
11-925	Video Privacy Protection
11-1107	Endangering Children
11-1250(a)	Harassment of Law Enforcement Animal
11-1301	Disorderly Conduct (Special DV Category May Apply)
11-1315	Public Intoxication (3 <sup>rd</sup> Offense w/in 1 Year)
11-1322	Criminal Nuisance
11-1324	Obstructing Ingress/Egress at Public Building
11-1343	Patronizing a Prostitute (see note)
11-1404	Providing Premises for Gambling
11-1445 (1-3)	Unlawful Dealing with Dangerous Weapon (1) Possess/Sell BB/Air gun or ammunition for same/ (2)Unlawfully transfer to u/16 a BB/Air gun/ (3)Parent permits u/16 to have FA, BB/ Air/ Spear gun unsupervised
11-1446	Unlawful Dealing with Switchblade (see note)
11-1907(c)	Fail to Answer Summons (see note)
11-2113	Breach Conditions of Release (Misdemeanor) (see note)
11-6562A	Furnishing Contraband
16-2513(a)	Threat/Coerce/Intimidate to W/D Medical Treatment (see note)
16-3111(b)	Violations Concerning Vital Statistics Records (see note)
16-4757(c)	Possession of Hypodermic Syringe (see note)
16-4774 (d)	Advertisement of Drug Paraphernalia (see note)
16-6611(b)	Violation of Fire Regulations (see note)

### Supplemental Notations Unclassified Misdemeanors:

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<b>11-812(c)</b>	<b><u>Graffiti</u></b> <ul style="list-style-type: none"> <li>• 1<sup>st</sup> Offense: (1) Min.Man.Fine: \$200 not suspendable up to a max. of \$1,000, (2) restitution for property damage &amp; (3) 200 hrs of community service at least half of which shall be served removing graffiti on public property</li> <li>• Subsequent Offenses: (1) Min.Man.Fine: \$500 up to a max. of \$1,000 , (2) restitution and (3) 400 hrs of community service.</li> <li>• Portions of fine may be used to pay for cost of supplies for removal of graffiti and supervision of graffiti removal.</li> </ul>
<b>11-850(b)(1)</b>	<b><u>Unlawful Telecommunication Device</u></b> <ul style="list-style-type: none"> <li>• Punishable by up to 1 yr at Level V; Fine up to \$10,000</li> <li>• (b)(7) All fines shall be imposed for each unlawful telecommunication or access device</li> <li>• (b)(8) Restitution shall be ordered in the manner prescribed by §4106</li> <li>• (b)(9) The court may order forfeiture of unlawful device(s)</li> </ul>
<b>11-922</b>	<b><u>Improper Labeling (&lt;100)</u></b> 11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.
<b>11-1343</b>	<b><u>Patronizing a Prostitute</u></b> <ul style="list-style-type: none"> <li>• (b) Minimum Mandatory Fine= \$500, which shall not be suspended</li> <li>• (c)/(d) For a prior conviction w/in 5 yrs, any vehicle used in connection shall be seized</li> </ul>
<b>11-1446</b>	<b><u>Unlawful Dealing with Switchblade</u></b> <ul style="list-style-type: none"> <li>• 11-1457(b)(3)&amp;(j)(2): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class B Misdemeanor.</li> <li>• 11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.</li> </ul>
<b>11-1907</b>	<b><u>Fail to Answer Summons.</u></b> Maximum penalty: 30 d. imprisonment &/or \$100 fine.
<b>11-2113</b>	<b><u>Breach Conditions of Release (Misdemeanor)</u></b> Maximum penalty: 1 yr. imprisonment &/or \$500 fine.
<b>16-2513(a)</b>	<b><u>Threat/Coerce/Intimidate to W/D Medical Treatment</u></b> Mandatory penalty: >\$500/<\$1,000 fine; >30 d. /<90 d. imprisonment
<b>16-3111(b)</b>	<b><u>Violations Concerning Vital Statistics Records</u></b> Maximum penalty: Fine up to \$1,000; Imprisonment up to 1 yr.
<b>16-4757(c)</b>	<b><u>Possession of Hypodermic Syringe</u></b> <ul style="list-style-type: none"> <li>• Maximum penalty: Fine up to \$100; Imprisonment up to 30 d.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
<b>16-4774</b>	<b><u>Advertisement of Drug Paraphernalia</u></b> <ul style="list-style-type: none"> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
<b>16-6611(b)</b>	<b><u>Violation of Fire Regulations</u></b> <ul style="list-style-type: none"> <li>• Reckless violation-Maximum penalty: up to 10 d. imprisonment &amp;/or up to \$100 fine.</li> <li>• Each &amp; every day the violation continues after notification shall be deemed a separate offense</li> </ul>

## Violations

Sentence Range (Violations) V	
Statutory Sentence	1st offense: Up to \$345 2nd offense (same violation): Up to \$690 3rd offense (same viol. W/in 5 yrs): Up to \$1150
Presumptive Sentence	1st or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: Up to 6m. @ Level I

### Crimes in Category

11-821	<b>Criminal Trespass 3<sup>rd</sup> Degree</b>
11-1116	<b>Tobacco Sale Violations: Sell/Distribute to u/18 (see note)</b>
11-1117	<b>Tobacco Sale Violations: Fail to Post Notice to u/18 (see note)</b>
11-1118	<b>Tobacco Sale Violations: Dist Samples/Coupons to u/18 (see note)</b>
11-1119	<b>Tobacco Sale Violations: Dist by Vending Machine (see note)</b>
11-1120	<b>Tobacco Sale Violations: Sell from Unlawful Package (see note)</b>
11-1315	<b>Public Intoxication</b>
11-1316	<b>Out-of-State Liquor Agent Registration (see note)</b>
11-1320	<b>Loitering on State-Supported School Property</b>
11-1321	<b>Loitering</b>
11-1323	<b>Obstructing Public Passages</b>
11-1330	<b>Smoking on Bus or Trolley</b>
11-1407	<b>Engaging in Crap Game</b>
11-1428	<b>Maintaining an Obstruction</b>

### Supplemental Notations for Violations:

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-1116-11120 (penalties §11-1121)	<b><u>Tobacco Sale Violations</u></b> <ul style="list-style-type: none"> <li>Mandatory Fines: 1<sup>st</sup> offense= \$250, 2<sup>nd</sup> offense= \$500, 3<sup>rd</sup> and subsequent offenses= \$1,000</li> <li>Prior conviction w/in 12 m.: Defendant's license to sell tobacco may be suspended for up to 6m. w/out refund of registration fees</li> </ul>
11-1316	<b><u>Out-of-State Liquor Agent Registration</u></b> Violations shall result in the loss of the right to register or registration for period of 6m.



## **Title 21 and Title 23 Offenses**

### **Crimes In Category**

<b>21-2810</b>	<b>Driving After Judgment Prohibited (see note)</b>
<b>21-4103(b)</b>	<b>Flee or Attempt to Elude (see note)</b>
<b>21-4112A(c)</b>	<b>Unlawful Sale Traffic Control Signal Preemption Devices (see note)</b>
<b>21-4175</b>	<b>Reckless Driving (see note)</b>
<b>21-4175A</b>	<b>Aggressive Driving (see note)</b>
<b>21-4176</b>	<b>Careless or Inattentive Driving (see note)</b>
<b>21-4176A</b>	<b>Operation of Vehicle Causing Death (see note)</b>
<b>21-4177 et al.</b>	<b>Driving a Vehicle While Under the Influence (see note)</b>
<b>21-4201</b>	<b>Leaving the Scene of an Accident (see note)</b>
<b>21-4202</b>	<b>Leaving the Scene of an Accident (Injury/Death) (see note)</b>
<b>23-2302</b>	<b>Operation of a Vessel or Boat While Under the Influence (see note)</b>

### **Supplemental Notations for Title 21 Offenses:**

Per SENTAC Policy #15: Traffic offenses with the exception of 21-2810 (Driving after Judgment Prohibited) do not come under the purview of SENTAC's sentencing recommendations. However, in the interest of conserving expensive and limited prison space for the violent and proven incalcitrant offender, it is strongly recommended that Title 21 offenders not be given a sentence to Level V incarceration unless that have previously been sentenced to, and failed at, supervision in Level III & IV, or unless incarceration is mandated by law. Legislative mandates for the above listed offenses have been noted below.	
21-4205(a) Other than offenses involving injury, death or DUI, terms of imprisonment may be served in quasi-incarceration (Level IV).	
21-4205(b) For offenses involving injury caused by operation of a motor vehicle or DUI, imprisonment shall be served at Level V or in quasi-incarceration (Level IV) so long as such placement is in a D.O.C. facility which requires full-time residence and that the person may not be outside of the confines of said facility without armed supervision.	
21-4205(c) For offenses involving death caused by operation of a motor vehicle or DUI, imprisonment shall be served at Level V.	
21-4205(d) The appropriate supervision level under (a) or (b) shall be determined by D.O.C. and not by the sentencing judge.	
Restitution shall be ordered for losses to victim. (Title 11, §4106)	
Costs of prosecution may be ordered. (Title 11, §4204(i))	

<b>21-2810</b>	<b>Driving After Judgment Prohibited</b>		
	Statutory Sentence	<ul style="list-style-type: none"> <li>Habitual Offender: (1) 1<sup>st</sup> Conviction- Mandatory Imprisonment from 90d. up to 30m. &amp; Fine up to \$1,150; (2) Prior Conviction- Mandatory Imprisonment from 180d. up to 5 yrs. &amp; Fine up to \$2,300.</li> <li>Mandatory Imprisonment not subject to suspension</li> </ul>	
	Presumptive Sentence	(1) 1 <sup>st</sup> Conviction: 3m. @ Level V (2) Prior Conviction: 6m. @ Level V	
<b>21-4103(b)</b>	<b>Flee or Attempt to Elude</b> <ul style="list-style-type: none"> <li>Class G Felony. 1<sup>st</sup> Conv: Min.Man. fine of \$575 which may not be suspended. Subsequent Conv.: Min.Man. fine of \$1150 which may not be suspended.</li> </ul>		
<b>21-4112A(c)</b>	<b>Unlawful Sale Traffic Control Signal Preemption Devices :</b> Class A Misdemeanor		

21-4175	<p><b><u>Reckless Driving.</u></b> Mandatory Minimum Sentences:</p> <ul style="list-style-type: none"> <li>• 1<sup>st</sup> Offense: 10 - 30d. @ Level V; Fine= \$100-\$300</li> <li>• Prior Conviction w/in 3 yrs.: 30 - 60d.@ Level V; Fine= \$300-1,000. Sentence may not be suspended.</li> <li>• If charge is result of DUI reduction: Completion of course required under §4177D and payments of its attendant fees are mandated. The court must notate the record that the conviction was alcohol-related and, as result, shall be reflected upon Defendant's motor vehicle record.</li> </ul>
21-4175A	<p><b><u>Aggressive Driving.</u></b> Mandatory Minimum Sentences</p> <ul style="list-style-type: none"> <li>• 1<sup>st</sup> Offense: 10-30d. @ Level V; Fine= \$100-\$300</li> <li>• Prior Conviction w/in 3 yrs.:30-60d.@ Level V; Fine= \$300-1,000. Sentence may not be suspended.</li> <li>• Driving privileges suspended for 30d.</li> <li>• Completion of Behavior Modification course and payment of its attendant fees are mandated.</li> </ul>
21-4176	<p><b><u>Careless or Inattentive Driving.</u></b> Mandatory Minimum Sentences:</p> <ul style="list-style-type: none"> <li>• 1<sup>st</sup> Offense: Fine= \$25-\$115</li> <li>• Prior Conviction w/in 3 yrs: 10-30d.@ Level; Fine=\$50-\$230</li> </ul>
21-4176A	<p><b><u>Operation of Vehicle Causing Death</u></b></p> <ul style="list-style-type: none"> <li>• Maximum penalty 1<sup>st</sup> Conviction: up to 30 m. imprisonment &amp;/or \$1,150 Fine</li> <li>• Prior Conviction: up to 60 m. imprisonment &amp;/or \$2,300 Fine</li> </ul>
21-4177	<p><b><u>Driving a Vehicle While Under the Influence.</u></b> Mandatory Minimum Sentences:</p> <ul style="list-style-type: none"> <li>• <b>1<sup>st</sup> Offense:</b> (1) up to 6m. @ Level V; (2) Fine= \$230-\$1,150; (3) Completion of alcohol evaluation and program (§4177D) which may include up to 6m. confinement &amp; a fee not in excess of maximum fine under this section; (4) 12m. DL revocation</li> <li>• <b>2<sup>nd</sup> Offense:</b> (1) 60d-18m. @ Level V; (2) Fine= \$575-\$2,300; minimum sentence may not be suspended; (3) Completion of alcohol evaluation and program (§4177D) which may include up to 15m. confinement &amp; a fee not in excess of maximum fine under this section; (4) 18 m. DL revocation if B.A.L. &lt; .16/ 24. if B.A.L.=.16-.19/ 30m. if B.A.L. = &gt; .20.; (5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant after first 12m. of DL revocation and for either 3 months or the remaining revocation period whichever is greater</li> <li>• <b>3<sup>rd</sup> Offense:</b> (Class G Felony): (1) 1-2 yrs. imprisonment (first 3m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind);(2) Fine= \$1,000-\$3,000. (3) Completion of alcohol evaluation and program (§4177D) which may include up to 15m. confinement &amp; a fee not in excess of maximum fine under this section; (4) 24m. DL revocation if B.A.L. &lt; .16/ 30m. if B.A.L.=.16-.19/ 36m. if B.A.L. = &gt;.20.; (5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant after first 12m. of DL revocation and for either 3 months or the remaining revocation period whichever is greater</li> <li>• <b>4<sup>th</sup> or Subsequent Offense:</b> (Class E Felony): (1) 2-5 yrs. imprisonment (first 6m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind); (2) Fine= \$2,000-\$6,000. (3) Completion of alcohol evaluation and program (§4177D) which may include up to 15m. confinement &amp; a fee not in excess of maximum fine under this section. (4) 24m. DL revocation if B.A.L. &lt; .16/ 30m. if B.A.L.=.16-.19/ 36m. if B.A.L. = &gt;.20.; (5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant after first 12m. of DL revocation and for either 3 months or the remaining revocation period whichever is greater; Payment of associated costs is required</li> </ul>

	<p>unless indigent (§4177G(e))</p> <ul style="list-style-type: none"> <li>Any provisions under (d)(3) may be applied upon motion of AG.</li> <li>Aggravating Factor: In addition to the above, if a person &gt; 17 y.o.a. was in the vehicle, the following additional requirements must be added: (a) 1<sup>st</sup> offense- 40 hrs. community service benefiting children &amp; \$230-\$1,150; (b) Prior offense involving same: 80 hrs. community service benefiting children &amp; \$575-\$2,300.</li> <li>Revocation of driving privileges will remain in effect until (1) the minimum required period AND (2) completion of alcohol evaluation and program have been satisfied. The court shall take possession of the Defendant's driver's license upon conviction and forward it to the appropriate agency (§4177A(c))</li> </ul> <p>Discretionary Sentence Conditions:</p> <ul style="list-style-type: none"> <li>For a violation of (a) or (b), the Court may order an ignition interlock device for a minimum period of 1 yr. A person violating (a) while also in violation of this section shall be sentenced to 60d. imprisonment &amp; a fine of \$2,300.</li> <li>§4177B First Offenders: Election in Lieu of Trial</li> <li>§4177G Subsequent Offender eligibility for Interlock Ignition Device License</li> </ul>
21-4201	<p><b><u>Leaving the Scene of an Accident.</u></b> Mandatory Minimum Sentence: (1) 60d.-6m. imprisonment; (2) Fine \$230-\$1,150; (3) 6m. driver's license revocation.</p>
21-4202	<p><b><u>Leaving the Scene of an Accident (Injury/Death).</u></b></p> <p>Mandatory Minimum Sentences:</p> <ul style="list-style-type: none"> <li>(b) Injury (unclassified misdemeanor): (1) 1-2 yrs. imprisonment; (2) Fine= \$1,000-\$2,000; (3) 1 yr. driver's license suspension</li> <li>(c) Death (class E felony): (1) 1 yr. minimum imprisonment of which the first 6m. may not be suspended; (2) 2 yr. driver's license suspension</li> </ul>
23-2302	<p><b><u>Operation of a Vessel or Boat While Under the Influence.</u></b> Mandatory Minimums:</p> <ul style="list-style-type: none"> <li><b>(1) 1<sup>st</sup> Offense:</b> (1) 60d.-6m. @ Level V &amp;/or (2) Fine= \$200-\$1,000</li> <li><b>(2) 2<sup>nd</sup> Offense w/in 5 yrs:</b> (1) 60d.-18m. @ Level V and (2) Fine= \$500-\$2,000; minimum sentence may not be suspended and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8)</li> <li><b>(3) 3<sup>rd</sup> Offense w/in 5 yrs:</b> (Class G Felony): (1) 1-2 yrs. @ Level V (first 3m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind) and (2) Fine= \$1,000-\$3,000 and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8)</li> <li><b>(4) 4<sup>th</sup> or Subsequent Offense:</b> (Class E Felony): (1) 2-5 yrs. @ Level V (first 6m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind) and (2) Fine: \$2,000-\$6,000 and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8)</li> <li><b>(5)(a) Aggravating factor-If a juvenile &lt;17 y.o.a. was on board, then:</b> <ul style="list-style-type: none"> <li>1<sup>st</sup> Offense: Additional fine= \$200-\$1,000 and 40 hrs. community service</li> <li>Subsequent Offense: Additional fine= \$500-\$2,000 and 80 hrs. community service</li> </ul> </li> </ul>

## SUMMARY OF DRUG OFFENSES

### Summary of Drug Offenses- Class B Felonies

#### Class B Felony (Violent)

Sentence Range (Violent Category) FBV	
Statutory Range	2 to 25 Years
Presumptive Sentence	2 – 5 yrs; First Two Years at Level V (May Not Be Suspended)
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

<b>16-4751(c)</b>	<b>Manufacture/Delivery Narcotic: Death (see note)</b>
<b>16-4753A</b>	<b>Trafficking in Controlled Substances (see note)</b>

#### Supplemental Notations:

<b>16-4751(c)</b>	<p><b><u>Manufacture/Delivery Narcotic: Death</u></b></p> <ul style="list-style-type: none"> <li>• Minimum Fine= \$10,000, Maximum Fine= \$100,000</li> <li>• 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1<sup>st</sup> conviction: minimum mandatory sentence= 6 years at Level V (2) 2<sup>nd</sup> or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended.</li> <li>• <b>16-4763(a)(1)</b> If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years.</li> <li>• <b>16-4763(a)(2)</b> If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• Title 21, §4177K: Mandatory 3 yr. driver's license revocation</li> </ul>										
<b>16-4753A</b>	<p><b><u>Trafficking in Controlled Substances</u></b></p> <ul style="list-style-type: none"> <li>• (a) Mandatory Minimum Terms of Imprisonment (Level V) and Fines:</li> </ul> <table> <tr> <td>MARIJUANA</td><td>5 - 99 lbs.: 2 yrs + \$25,000 fine</td></tr> <tr> <td>(1)</td><td>100 - 499 lbs.: 4 yrs + \$50,000 fine</td></tr> <tr> <td></td><td>500+ lbs: 8 yrs + \$100,000 fine</td></tr> <tr> <td>COCAINE</td><td>10 - 49 gm: 2 yrs + \$50,000 fine</td></tr> <tr> <td>(2)</td><td>50 - 99 gm: 4 yrs + \$100,000 fine</td></tr> </table>	MARIJUANA	5 - 99 lbs.: 2 yrs + \$25,000 fine	(1)	100 - 499 lbs.: 4 yrs + \$50,000 fine		500+ lbs: 8 yrs + \$100,000 fine	COCAINE	10 - 49 gm: 2 yrs + \$50,000 fine	(2)	50 - 99 gm: 4 yrs + \$100,000 fine
MARIJUANA	5 - 99 lbs.: 2 yrs + \$25,000 fine										
(1)	100 - 499 lbs.: 4 yrs + \$50,000 fine										
	500+ lbs: 8 yrs + \$100,000 fine										
COCAINE	10 - 49 gm: 2 yrs + \$50,000 fine										
(2)	50 - 99 gm: 4 yrs + \$100,000 fine										

	100+ gm: 8 yrs + \$400,000 fine
OPIATES (3)	2.5-9 gm: 3 yrs + \$75,000 fine 10-49 gm: 10 yrs + \$150,000 fine 50+ gm: 25 yrs + \$750,000 fine
METHAMPHETAMINE (4)	5 - 49 gm: 2 yrs + \$50,000 fine 50 - 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine
AMPHETAMINE (5)	5 - 49 gm: 2 yrs + \$50,000 fine 50 - 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine
PHENYLICYCLIDINE (PCP) (6)	5 - 49 gm: 2 yrs + \$50,000 fine 50 - 99 gm: 4 yrs + \$100,000 fine 100+ gm: 8 yrs + \$400,000 fine
LYSERGIC ACID (LSD) (7)	50 - 99 doses/5 - 9 liquid mg: 2 yrs + \$50,000 fine 100 - 499 doses/10 - 49 liquid mg: 4 yrs + \$100,000 fine 500+ doses/50+ liquid mg: 8 yrs + \$400,000 fine
DESIGNER DRUG (8)	25 - 249 doses/5 - 49 gm/5 - 49 ml: 2 yrs + \$50,000 fine 250-500 doses/50-100 gm/50-100 ml – 4 yrs + \$100,000 fine 500+ doses 100+ gm/100+ ml – 8 years + \$400,000 fine
MDMA (9)	25 - 249 doses/5 - 49 gm/5 - 49 ml: 2 yrs + \$50,000 fine 250 - 499 doses/50 - 99 gm/50 - 99 ml: 4 yrs + \$100,000 fine 500+ doses/100+ gm/100+ ml: 8 years + \$400,000 fine
	<ul style="list-style-type: none"> <li>• (b) Adjudication of guilt or imposition of sentence shall not be suspended, deferred or withheld, nor shall such person be eligible for parole or release upon good time, work release, supervised custody, furlough or any similar program prior to serving mandatory minimum term of imprisonment</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>

## Summary of Drug Offenses- Class C Felonies

### Class C Felony (Violent)

Sentence Range (Violent Category) FCV	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 30 months @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

<b>16-4751(a)</b>	<b>Manufacture/Delivery/PWI Schedule I,II Narcotic (see note)</b>
<b>16-4761(a)(1)</b>	<b>Distribution of Schedule I or II Narcotic to u/21 y.o.a. (see note)</b>

#### Supplemental Notations:

<b>16-4751(a)</b>	<p><b><u>Manufacture/Delivery/PWI Schedule I,II Narcotic</u></b></p> <ul style="list-style-type: none"> <li>• Minimum Fine= \$5,000, Maximum Fine= \$50,000</li> <li>• 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1<sup>st</sup> conviction: minimum mandatory sentence= 6 years at Level V (2) 2<sup>nd</sup> or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended.</li> <li>• <b>16-4763(a)(1)</b> If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years.</li> <li>• <b>16-4763(a)(2)</b> If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• Title 21, §4177K: Mandatory 3 yr. driver's license revocation</li> </ul>
<b>16-4761(a)(1)</b>	<p><b><u>Distribution of Schedule I or II Narcotic to u/21 y.o.a.</u></b></p> <ul style="list-style-type: none"> <li>• (a)(3)If the recipient of the controlled substance/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• (a)(3)If the recipient of the controlled substance/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 2 yrs. At Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• If the Defendant is over 18 y.o.a. and uses, solicits, directs, hires or employs a person under 18 y.o.a. to commit violation of subchapter IV or V, the maximum</li> </ul>

	<p>sentence consists of 10 years at Level V and a \$250,000 fine.</p> <ul style="list-style-type: none"> <li>• <b>16-4763(a)(1)(f)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is increased to 17 yrs</li> <li>• <b>16-4763(a)(2)(d)</b> If previous conviction under §§4751,4752,4753A or 4761, mandatory minimum imprisonment is 10 yrs</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
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### **Class C Felony (Nonviolent)**

<b>Sentence Range (Nonviolent Category) FCN</b>	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	0 to 1 yr @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### **Crimes in Category:**

<b>16-4761A(a)(1)</b>	<b>Purchase Drugs from Minor (Schedule I,II/Narcotic) (see note)</b>
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#### **Supplemental Notations:**

<b>16-4761A(a)(1)</b>	<p><b><u>Purchase Drugs from Minor (Schedule I,II/Narcotic)</u></b></p> <ul style="list-style-type: none"> <li>• (a)(3)If the recipient of the narcotic/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• (a)(3)If the recipient of the narcotic/controlled substance/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 2 yrs. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
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## Summary of Drug Offenses- Class D Felonies

### Class D Felony (Violent)

Sentence Range (Violent Category) FDV	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 2 years @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

16-4752A	Delivery Noncontrolled Substance (see note)
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#### Supplemental Notations:

16-4752A	<p><b><u>Delivery Noncontrolled Substance</u></b></p> <ul style="list-style-type: none"> <li>• (c) Sentence is governed by the penalty for delivery of the substance which the defendant represented the noncontrolled substance to be. If no specific express or implied representation was made, the penalty shall be that for delivery of a nonnarcotic controlled substance. Section 4751(b) of Title 16 shall not apply</li> <li>• Minimum Fine= \$5,000, Maximum Fine= \$50,000</li> <li>• 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1<sup>st</sup> conviction: minimum mandatory sentence= 6 years at Level V (2) 2<sup>nd</sup> or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
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## Summary of Drug Offenses- Class E Felonies

### Class E Felony (Violent)

<b>Sentence Range (Violent Category): FEV</b>	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	0 to 15 m. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

16-4751(b)	Manufacture/Delivery/PWI of Sched. III, IV, V Narcotic (see note)
16-4752(a)	Manufacture/Delivery/PWI Nonnarcotic Controlled Substance (see note)
16-4752(b)	Dist/Sell/Prescribe Steroids/Counterfeit for Athletics (see note)
16-4754A(d)	Deliver/PWI Noncontrolled Prescription Drug (see note)
16-4761(a)(2)	Distribution Nonnarcotic Controlled Substance to u/21 y.o.a. (see note)
16-4774(c)	Delivery Drug Paraphernalia to Minor

#### Supplemental Notations:

16-4751(a)	<u><b>Manufacture/Delivery/PWI of Sched. III, IV, V Narcotic</b></u> <ul style="list-style-type: none"> <li>• Minimum Fine= \$3,000, Maximum Fine= \$15,000</li> <li>• 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1<sup>st</sup> conviction: minimum mandatory sentence= 6 years at Level V (2) 2<sup>nd</sup> or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended.</li> <li>• <b>16-4763(a)(1)</b> If previous conviction under §§4751,4752,4753A or 4761, (c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years.</li> <li>• <b>16-4763(a)(2)</b> If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
16-4752(a)	<u><b>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance</b></u> <ul style="list-style-type: none"> <li>• Minimum Fine=\$1,000, Maximum Fine= \$10,000/ Maximum Imprisonment= 5 yrs</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)</li> </ul>
16-4752(a) 16-4752(b)	<u><b>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance</b></u> <u><b>Dist/Sell/Prescribe Steroids/Counterfeit for Athletics</b></u>

	<ul style="list-style-type: none"> <li>• <b>16-4763(a)(1)(c)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 5 yrs.</li> <li>• <b>16-4763(a)(2)(a)</b> If previous conviction under §§4751,4752,4753A or 4761, mandatory minimum imprisonment is 3 yrs.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4754A(d)</b>	<p><b><u>Deliver/PWI Noncontrolled Prescription Drug</u></b></p> <ul style="list-style-type: none"> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4761(a)(2)</b>	<p><b><u>Distribution Nonnarcotic Controlled Substance to u/21 y.o.a.</u></b></p> <ul style="list-style-type: none"> <li>• (a)(4) If the recipient of the nonnarcotic controlled substance/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 6 m. at Level V; which minimum sentence shall not be subject to suspension, probation or parole. If the recipient is under 14 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole. (continued)</li> <li>• (c) If the Defendant is over 18 y.o.a. and uses, solicits, directs, hires or employs a person under 18 y.o.a. to commit violation of subchapter IV or V, the maximum sentence consists of 10 years at Level V and a \$250,000 fine.</li> <li>• <b>16-4763(a)(1)(e)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is increased to 9 yrs</li> <li>• <b>16-4763(a)(2)(c)</b> If previous conviction under §§4751,4752,4753A or 4761, the mandatory minimum imprisonment is 7 yrs</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
<b>16-4774(c)</b>	<p><b><u>Delivery Drug Paraphernalia to Minor</u></b></p> <ul style="list-style-type: none"> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>

## Summary of Drug Offenses- Class E Felonies

### Class E Felony (Nonviolent)

Sentence Range (Nonviolent Category) FEN	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	0 to 12 m. @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

16-4761A(a)(2)	Purchase Drugs from Minor (Controlled Substance/Nonnarcotic) (see note)
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#### Supplemental Notations:

16-4761A(a)(2)	<p><b><u>Purchase Drugs from Minor (Controlled Substance/Nonnarcotic)</u></b></p> <ul style="list-style-type: none"> <li>• (a)(4) If the recipient of the nonnarcotic/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 6 m. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• (a)(4) If the recipient of the nonnarcotic/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 1 yrs. at Level V; which minimum sentence shall not be subject to suspension, probation or parole</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
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## Summary of Drug Offenses- Class F Felonies

### Class F Felony (Nonviolent)

Sentence Range (Nonviolent Category) FFN	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	0 to 12 m. for Title 11 offenses; up to 18 months for Title 16 offenses @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

#### Crimes in Category:

16-4755(a)(1)	Illegal Distribution of Controlled Substance (see note)
16-4755(a)(2)	Unauthorized Manufacture/Distribution Controlled Substance (see note)
16-4755(a)(4)	Refusal to Allow Inspection (see note)
16-4755(a)(5)	Maintain Structure/Conveyance for Illegal Use/Delivery (see note)
16-4756	Obtain/Distribute Controlled Substance by Fraud/Theft (see note)

#### Supplemental Notations:

16-4755 16-4756	<ul style="list-style-type: none"> <li>• 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
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## Summary of Drug Offenses- Class G Felonies

### Class G Felony (Violent)

Sentence Range (Violent Category) FGV	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	0 to 6 m. @ Level V. For 16-4767 & 16-4768: 3 - 9 m. @ Level V.
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> <li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li> <li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li> <li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li> <li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li> </ul>

### Crimes in Category:

16-4761(c)	<b>Hire Minor to Violate any Drug Provision (see note)</b>
16-4767	<b>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 1000 ft School (see note)</b>
16-4768	<b>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 300 ft Park/Worship (see note)</b>

### Supplemental Notations:

16-4761(c)	<b><u>Hire Minor to Violate any Drug Provision</u></b> <ul style="list-style-type: none"> <li>• Maximum Sentence: Imprisonment= 10 yrs., Fine= \$250,000</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)</li> </ul>
16-4767	<b><u>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 1000 ft School</u></b> <ul style="list-style-type: none"> <li>• <b>(a)(1) Narcotic:</b> Maximum Penalty= 30 yrs imprisonment/ \$250,000 fine.</li> <li>• <b>(a)(2) Nonnarcotic:</b> Maximum Penalty= 15 yrs imprisonment/\$250,000 fine.\</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
16-4768	<b><u>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 300 ft Park/Worship</u></b> <ul style="list-style-type: none"> <li>• Maximum Penalty: Imprisonment= 15 yrs/ Fine= \$250,000.</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>

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## **Class G Felony (Nonviolent)**

<b>Sentence Range (Nonviolent Category) FGN</b>	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	0 to 12 m. @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"><li>• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.</li><li>• (c) Consecutive sentence shall not amount to more than limitations herein.</li><li>• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.</li><li>• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.</li></ul>

### **Crimes in Category:**

<b>16-4757(d)</b>	<b>Deliver/Dispose Hypodermic Syringe (see note)</b>
<b>16-4774(b)</b>	<b>Manufacture/Deliver/PWI Drug Paraphernalia (see note)</b>

### **Supplemental Notations:**

<b>16-4757(d)</b> <b>16-4774(b)</b>	<b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
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## Summary of Drug Offenses- Misdemeanors:

### Class A Misdemeanor

Sentence Range (Controlled Substance Category) MA5	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	<b>1st Offense w/16-4764 Waiver:</b> Minimum 18 m. @ Level I <i>(7/12/05)</i> <b>1st Offense w/o Waiver:</b> 12 m. @ Level II <b>2nd Offense w/in 2 Years:</b> 6 m. @ Level III & 6m. @ Level II <b>3rd Offense w/in 3 Years:</b> 6 m. @ Level V

#### Crimes in Category:

16-4740	Sale of Pseudoephedrine/Ephedrine
16-4753	Possess/Use/Consumption Narcotic/Counterfeit w/out Rx (see note)
16-4755(a)(3)	Refuse/Fail to Make/Keep/Furnish Required Record (see note)
16-4758	Keeping Drugs in Original Container (see note)
16-4774(a)	Possession of Drug Paraphernalia (see note)

#### Supplemental Notations:

16-4753	<b>Possess/Use/Consumption Narcotic/Counterfeit w/out Rx</b> <ul style="list-style-type: none"><li>May qualify for First Offender Diversion Program (see §4764)</li><li><b>16-4763(a)(1)(b)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 3 yrs.</li><li>21-4177K(a) Mandatory 2 yr. driver's license revocation subject to (d)</li></ul>
16-4753 16-4755 16-4758 16-4774	<ul style="list-style-type: none"><li><b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li><li><b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li></ul> 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (d)

### Class B Misdemeanor

Sentence Range (Class B Misdemeanors) MB	
Statutory Sentence	0 to 6m. @ Level V and up to \$1,150 fine
Presumptive Sentence	1st &/or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: up to 6m. @ Level I or II

#### Crimes in Category:

16-4754	Possess/Use/Consume Controlled Substance (Nonnarcotic) (see note)
16-4754A	Possession of Noncontrolled Prescription Drug (see note)

#### Supplemental Notations:

16-4754	<b>Possess/Use/Consume Controlled Substance (Nonnarcotic)</b> <ul style="list-style-type: none"><li>May qualify for First Offender Diversion Program (see §4764)</li><li><b>16-4763(a)(1)(a)</b> If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 2 yrs.</li><li><b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be</li></ul>
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	<p>increased by 1 yr at Level V</p> <ul style="list-style-type: none"> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (d)</li> </ul>
<b>16-4754A</b>	<p><b><u>Possession of Noncontrolled Prescription Drug</u></b></p> <ul style="list-style-type: none"> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> <li>• 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (d)</li> </ul>

## **Unclassified Misdemeanors**

<b>Sentence Range (Unclassified Misdemeanors) UM</b>	
Statutory Sentence	Up to 30d. @ Level V and up to \$575 fine
Presumptive Sentence	1 <sup>st</sup> or 2 <sup>nd</sup> offense: Fine, Costs, Restitution Only 3 <sup>rd</sup> Offense w/in 2 yrs: 0 to 6m. @ Level I or II

## **Crimes in Category**

<b>16-4757(c)</b>	<b>Possession of Hypodermic Syringe (see note)</b>
<b>16-4774 (d)</b>	<b>Advertisement of Drug Paraphernalia (see note)</b>

## **Supplemental Notations:**

<b>16-4757(c)</b>	<p><b><u>Possession of Hypodermic Syringe</u></b></p> <ul style="list-style-type: none"> <li>• Maximum penalty: Fine up to \$100; Imprisonment up to 30 d.</li> <li>• <b>16-4763(c)</b> If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V</li> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>
<b>16-4774(d)</b>	<p><b><u>Advertisement of Drug Paraphernalia</u></b></p> <ul style="list-style-type: none"> <li>• <b>16-4763(d)</b> Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</li> </ul>

## Summary of Trafficking Offenses

CONTROLLED SUBSTANCE	SECTION NO.	OLD CLASS/ PENALTY	NEW CLASS/ PENALTY	FINES
<b><u>MARIJUANA</u></b> 5-99 lbs. 100-499 lbs. 500+ lbs.	4753A(a)(1)(a) 4753A(a)(1)(b) 4753A(a)(1)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$25,000 \$50,000 \$100,000
<b><u>COCAINE</u></b> 10-49 grams 50-99 grams 100+ grams	4753A(a)(2)(a) 4753A(a)(2)(b) 4753A(a)(2)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<b><u>HEROIN/OPIATES</u></b> 2.5-9 grams 10-49 grams 50+ grams	4753A(a)(3)(a) 4753A(a)(3)(b) 4753A(a)(3)(c)	B/3-20 years B/10-20 years B/25 years	B/3-25 years B/10-25 years B/25 years	\$75,000 \$150,000 \$750,000
<b><u>METHAMPHETAMINES</u></b> 5-49 grams 50-99 grams 100+ grams	4753A(a)(4)(a) 4753A(a)(4)(b) 4753A(a)(4)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<b><u>AMPHETAMINES</u></b> 5-49 grams 50-99 grams 100+ grams	4753A(a)(5)(a) 4753A(a)(5)(b) 4753A(a)(5)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<b><u>PCP</u></b> 5-49 grams 50-99 grams 100+ grams	4753A(a)(6)(a) 4753A(a)(6)(b) 4753A(a)(6)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<b><u>LSD</u></b> 50-99 doses/5-9 mg 101-499 doses/10-49 mg 500+ doses/ 50+ mg	4753A(a)(7)(a) 4753A(a)(7)(b) 4753A(a)(7)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<b><u>DESIGNER DRUGS</u></b> 25-249d/5-49gm/ ml 250-500d/50-100gm/ ml 500+d/100+gm/ ml	4753A(a)(8)(a) 4753A(a)(8)(b) 4753A(a)(8)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<b><u>MDMA</u></b> 25-249d/5-49gm/ ml 250-500d/50-100gm/ ml 500+d/100+gm/ ml	4753A(a)(8)(a) 4753A(a)(8)(b) 4753A(a)(8)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000

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## **Summary of 16-4763**

**(a) Previous Convictions-** If a defendant has previously been convicted of any of the following sections: §§ 4751, 4752, 4753A or 4761, the penalties set forth in § 4751-4761 of this title shall be increased as follows:

**(1) The Maximum Penalties shall be increased to:**

- a. §4754- not more than 2 years.
- b. §4753- not more than 3 years.
- c. §4751 or §4752 (except heroin or a heroin compound)- 5 years.
- d. §4751 Heroin or Heroin compound- 10 years.
- e. §4761(a)(2)- not more than 9 years.
- f. §4761(a)(1)- not more than 17 years.

**(2) Minimum Mandatory Penalties:** The following sections require the imposition of the minimum mandatory penalties as described. Said penalties shall not be suspended, nor shall defendants be eligible for probation or parole during the mandatory portion of their sentence:

- a. §4751 or §4752 (except heroin or heroin compounds)- 3 years.
- b. §4751 Heroin or Heroin compound- 5 years.
- c. §4761(a)(2)- 7 years.
- d. §4761(a)(1)- 10 years.

**(b) Mitigating Circumstances and Reduced Penalties**

**(1)** The maximum penalty for a violation of **§4752 or §4761(a)(2)** is \$1,000 fine and/or 2 years @ Level V if all of the following conditions have been met:

- a. Defendant is under 21 y.o.a.,
- b. The defendant delivered a controlled or counterfeit substance classified in Schedule I or II as a narcotic,
- c. The incident was an isolated one, the Defendant did not profit by it or assist another to profit and the Defendant is not engaged in the business of delivering controlled or counterfeit substances,
- d. The person who purchased the substance was at least 15 y.o.a. and had known the Defendant for a minimum of 1 year prior to the transaction.

**(2)** In any prosecution under **§4754**, the maximum penalty shall be a fine of \$500 and/or 90 days @ Level V if all of the following conditions have been met:

- a. Defendant is under 21 y.o.a.,

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- b. Defendant had used or possessed a controlled or counterfeit substance other than a narcotic,
  - c. Defendant is not engaged in the business of delivering controlled or counterfeit substances
  - d. The controlled or counterfeit substance was obtained from one whom the defendant reasonably believed was at the time under the age of 21 and did not make a profit or assist another in making a profit in the transaction and was not in the business of delivering controlled or counterfeit substances and had been acquainted with the Defendant for a period of 1 year before any delivery took place

**(3)** The burden shall be on the Defendant to establish mitigating circumstances by preponderance. The Defendant may elect to plead said mitigating circumstances and present to either but not both: (i) the trier of fact or (ii) the court at a hearing after conviction and prior to sentencing

**(4)** This subsection is not applicable to Defendants with previous convictions as defined in subsection (a) of this section and the penalties provided therein shall apply fully. A conviction for which the penalty has been mitigated under subsection (b) shall count as a previous conviction for purposes of subsection (a).

**(c) Additional Penalties-** If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V

**(d) Substance Abuse Treatment:** Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV

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## AGGRAVATING AND MITIGATING FACTORS

The standard sentence range is presumed to be appropriate for the typical criminal case. The court may impose a sentence outside the standard sentence range for that offense if it finds that there are substantial and compelling reasons justifying an exceptional sentence.

The following aggravating and mitigating circumstances for exceptional sentences are provided as examples and are not intended to be exclusive reasons for departure. An aggravating or mitigating circumstance, whether listed below or not, shall only apply if it does not reflect the statutory language defining the current offense, or constitute an element thereof.

When an exceptional sentence is decreed, the governing factor(s) leading to the exceptional sentence must be stated for the record, and should be identified in the sentencing order or on the sentencing worksheet.

### Aggravating Factors:

- A1 Excessive Cruelty
- A2 Prior Violent Criminal Conduct
- A3 Repetitive Criminal Conduct
- A4 Need for Correctional Treatment
- A5 Undue Depreciation of Offense
- A6 Major Economic Offense or Series of Offenses
- A7 Prior Abuse of Victim
- A8 Custody Status at Time of Offense
- A9 Lack of Remorse
- A10 Betrayal of Public Trust
- A11 Supervision to Monitor Restitution
- A12 Lack of Amenability
- A13 Vulnerability of Victim
- A14 Statutory Aggravation
- A15 Statutory Habitual Offender
- A16 Child Domestic Violence Victim
- A17 Offense Against a Child
- A18 Sentenced to Time Already Served Only

### Mitigating Factors:

- M1 Victim Involvement
- M2 Voluntary Redress or Treatment
- M3 Under Duress or Compulsion
- M4 Inducement By Others
- M5 Physical/Mental Impairment
- M6 Concern for Victim by Non-Principal
- M7 No Prior Convictions
- M8 Treatment Need exceeds Need for Punishment
- M9 Could Lose Employment
- M10 Statutory Mitigation
- M11 Assistance to Prosecution
- M12 Mental Retardation
- M13 Other

## Description of AGGRAVATING FACTORS For Exceptional Sentences

### Violent Felonies Only:

#### EXCESSIVE CRUELTY

- a. Those facts surrounding the commission of a violent felony which demonstrate such a callousness and cruelty towards the victim as to shock the conscience of the Court. [Standard 4 I.A.(i)]
- b. Allowable Penalty: Up to the statutory maximum for the instant offense.

#### PRIOR VIOLENT CRIMINAL CONDUCT

- a. Defendant has demonstrated, by his prior criminal history, a propensity for violent criminal conduct. (SEE POLICY NO. 4) [Standard 4 I.A.(i)]
- b. Recommended Penalties:
  1. With two or more prior, separate violent felonies --Up to the statutory maximum.
  2. With one prior violent felony -- up to 50% of the statutory maximum.

### SUMMARY: STANDARD PRIOR HISTORY CATEGORIES FOR VIOLENT FELONIES

Category	Factor	Fel A	Fel B	Fel C	Fel D	Fel E	Fel F	Fel G
A	One or less prior felonies	Presumptive Sentence						
B	While on release or pending trial/sentencing	Level V for up to the time shown below:						
		25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
C	Two or more prior felonies	25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
D	One prior <b>violent</b> felony	25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
E	Two or more prior <b>violent</b> felonies	Life	25 yrs	15 yrs	8 yrs	5 yrs	3 yrs	2 yrs
F	Excessive Cruelty	Life	25 yrs	15 yrs	8 yrs	5 yrs	3 yrs	2 yrs

If violent crime is a secondary offense, use up to the presumptive sentence.

Aggravated Prior History Sentences at Level V for Nonviolent Felonies								
H	Repetitive criminal history	NA	NA	24 months	Up this number of months:			
					24	15	9	6
J	Lack of amenability to lesser sanctions	NA	NA	24 months	Up to this number of months:			
					24	15	9	6

If nonviolent crime is a secondary offense, use the nonaggravated presumptive sentence.



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## **Any Offense:**

### **REPETITIVE CRIMINAL CONDUCT**

Definition: Repetitive Criminal Conduct is conviction or adjudication for the same or similar offense on two or more previous, separate occasions. (SEE POLICY NO. 16)

### **NEED FOR CORRECTIONAL TREATMENT**

The defendant is in need of correctional treatment which can be most effectively provided if he is placed in total confinement. [Standard 4 I.B]

### **UNDUE DEPRECIATION OF OFFENSE**

It would unduly depreciate the seriousness of the offense to impose a sentence of other than total confinement. [Standard 4 I.D.]

### **MAJOR ECONOMIC OFFENSE OR SERIES OF OFFENSES:**

Identified by a consideration of any of the following factors:

- a. The offense involved multiple victims or multiple incidents per victim;
- b. The offense involved attempted or actual monetary loss substantially greater than typical for the offense;
- c. The offense involved a high degree of sophistication or planning, or occurred over a lengthy period of time;
- d. The defendant used his/her position of trust, confidence or fiduciary responsibility to facilitate the offense.

### **PRIOR ABUSE OF VICTIM:**

On prior occasions, the defendant has harassed, threatened, or physically abused the victim of the current offense.

### **CUSTODY STATUS AT TIME OF OFFENSE:**

The offender was on bail, early release from incarceration, or was serving a sentence in other than Level V at the time the offense was committed.

### **LACK OF REMORSE**

The offender has demonstrated a total lack of remorse or acceptance of responsibility with regard to the offense.

### **BETRAYAL OF PUBLIC TRUST**

The offender, in attempting to gain, or while holding, public office by appointment or election, betrayed the Public Trust by his or her unlawful conduct.

### **SUPERVISION TO MONITOR RESTITUTION**

A long period of supervision is necessary to monitor the offender's restitution responsibilities. Penalty Note: Applicable to sentences involving **less than Level V time** only.

### **LACK OF AMENABILITY**

The defendant has demonstrated a lack of amenability to lesser restrictive sanctions through violation of a prior period of probation, or a failure to meet the conditions of a prior or current period of probation.

### **VULNERABILITY OF VICTIM**

The Defendant knew, or should have known, that the victim of the offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

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### **STATUTORY AGGRAVATION**

The current offense carries with it a statutory minimum mandatory period of incarceration which exceeds the sentencing guidelines.

### **STATUTORY HABITUAL OFFENDER**

The Court, on motion, determined the defendant to be an habitual offender under the provisions of 11 Del.C., s4214, thus calling for a sentence of incarceration which exceeds the sentencing guidelines.

### **CHILD DOMESTIC VIOLENCE VICTIM**

The person who is a victim in domestic violence is a child.

### **OFFENSE AGAINST A CHILD**

The victim in the offense was a child under 16 years old.

<b>Description of MITIGATING FACTORS For Exceptional Sentences</b>
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### **VICTIM INVOLVEMENT:**

To a significant degree, the victim was an initiator, willing participant, aggressor, or instigator of the incident.

### **VOLUNTARY REDRESS OR TREATMENT:**

Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained, or, before detection, he voluntarily sought professional help for drug/alcohol treatment, or for any other recognized compulsive behavioral disorders related to the offense.

### **UNDER DURESS OR COMPULSION:**

The defendant committed the crime under duress, coercion, emotional distress, threat or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

### **INDUCEMENT BY OTHERS:**

The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

### **PHYSICAL/MENTAL IMPAIRMENT:**

The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants (drugs or alcohol) does not fall within the purview of this circumstance.

### **CONCERN FOR VICTIM BY NON-PRINCIPAL:**

The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

### **NO PRIOR CONVICTIONS**

### **TREATMENT NEED EXCEEDS NEED FOR PUNISHMENT:**

The offender is in greater need of an available treatment program than of punishment through incarceration.

### **COULD LOSE EMPLOYMENT:**

The offender is gainfully employed and will more than likely lose his/her job if the sentencing standard is imposed.

### **STATUTORY MITIGATION**

- Regarding violation of 16 Del.C., §4752 or §4761(2), see 16 Del.C., §4763(b)(1).
- Regarding violation of 16 Del.C., §4754, see 16 Del.C., §4763(b)(2).
- Regarding violation of 16 Del.C., §4753 or §4754, see 16 Del.C., §4764.

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**ASSISTANCE TO PROSECUTION:**

Defendant rendered substantial assistance to Authorities in the investigation and/or prosecution of this or other crimes.

**MENTAL RETARDATION**

- a. Defendant is "significantly sub average in general intellectual function" (usually interpreted as an IQ score of 70 or less); AND
- b. "has deficits in adaptive behavior" (has insufficient life skills to get along without constant assistance from others); AND
- c. "manifested the above handicaps during the developmental period". (usually interpreted as having experienced the onset of handicap at the age of 21 or younger).

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## EXCEPTIONAL SENTENCES

### Special Categories:

#### Domestic Violence

The particular nature of criminal charges involving domestic violence may be considered as deserving of aggravated punishment, for example, those cases where there have been repeated incidences prior to the first formal charge in Court, **and those cases where children the witnesses or victims of domestic violence.** If aggravating circumstances are present, the following recommendations are presented below. If the guidelines in this category are used, the sentencing order/worksheet must identify the charge as "Domestic Violence Involved".

#### Class G Nonviolent Felony

Statutory Range- 0 to 2 years

11-1312	Aggravated Harassment	Presumptive Sentence: 0 to 12 m @ Level II
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#### Class A Misdemeanors

Statutory Range - 0 To 1 Years

11-603	Reckless Endangering 2nd Degree
11-611	Assault 3rd Degree
11-621	Terroristic Threatening
11-766	Incest
11-767	Unlawful Sexual Contact 3rd Degree
11-781	Unlawful Imprisonment 2nd Degree
11-785	Interference with Custody
11-791	Coercion
11-1101	Abandonment of Child
11-1102	Endangering Welfare of Child
11-1271A	Criminal Contempt: DV Protection Order

#### Class B Misdemeanors

Statutory Range - 0 to 6 Months

11-1311	Harassment	Presumptive Sentence		
		(Misd A or B)	Level	Time
		1st Offense	V	Up To 1 Month
		2nd Offense w/in 2 years	V	Up to 2 Months
		3rd Offense w/in 5 years	V	Up To 3 Months

#### Unclassified Misdemeanors

Statutory Range - 0 to 30 days

11-601	Offensive Touching	Presumptive Sentence	Level	Time
11-602	Menacing	Any offense	V	Up To 1 month
11-763	Sexual Harassment			
11-1301	Disorderly Conduct			

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## Enhanced Penalties applicable when:

Children are present during the crime OR are victims of the offense against a co-defendant if a conspirator was under the age of 14 and the codefendant was 4 or more years older than the child at the time of the crime. (Enhanced penalty for ANY crime)

Enhanced Presumptive Sentence:	Level	Time
Any Non-Violent Felony G	II	12 months or more
<b>Misdemeanor Class A or B:</b>		
1st Offense	V	1 to 2 months
2nd Offense in 2 years	V	2 to 3 months
3rd Offense in 5 years	V	3 or more months
Any Unclassified Misdemeanor	V	1 or more months

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## EXCEPTIONAL SENTENCES

### Special Categories:

<b>Escape</b>
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Due to the peculiar nature of escape charges, which may be considered as deserving aggravated punishment even though they are primarily non-violent in nature, the following recommendations are presented:

11-1251	Escape 3rd Degree	0 to 1 m @ Level V
11-1252	Escape 2nd Degree	0 to 3 m @ Level V
11-1253	Escape After Conviction (Class D Felony Violent)	0 to 2 yrs @ Level V
11-1253	Escape After Conviction (Force/Threat/DW)(Class C Fel Violent)	1 to 3 yrs @ Level V
11-1253	Escape After Conviction (Injury)(Class B Felony Violent)	2 to 5 yrs @ Level V

### ESCAPE FROM LEVEL IV FACILITY

(Applies to all Half-Way House and Residential Treatment facilities)

1st offense	Level V for 30 days (Title 11, §4204(k))
2nd offense	Level V for 90 days (Title 11, §4204(k))
3rd & subsequent offense	Level V for 180 days (Title 11, §4204(k))

Presumptive penalty for a first escape from Home Confinement is a lateral assignment to a Half-way House facility.

Sentencing Orders and worksheets should reflect the status as a Level IV Escape.

Policy 31: Any person arrested on a charge of escape from any Correctional facility, including both Level V and Level IV facilities, should be returned by the court to a Level V secured facility pending such hearings as may ensue from the charge. Persons charged with such escapes should not be released on bond.

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## Exceptional Sentences:

<b>Habitual Criminal</b>
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### §4214(a)- 3 Prior Felony Convictions

- If an offender has been convicted three times of a felony, other than those mentioned in subsection (b), and is thereafter convicted of a subsequent felony, that offender is declared to be an habitual criminal.
- The Court May, In Its Discretion, Sentence the Offender to any sentence up to life imprisonment.
- The Court Shall Sentence the Offender to a minimum sentence of the statutory maximum for the fourth or subsequent felony when it is a Title 11 Violent Felony as defined in §4201.
- A life sentence under this section shall be served in its entirety at a full custodial Level V institutional setting and is not subject to Suspension, Probation, Parole, Earned Good Time or any other reduction.
- A sentence for less than life under this section shall be served in its entirety at a full custodial Level V institutional setting and is not subject to Suspension, Probation, or Parole except the provisions contained within §§4205(h)<sup>21</sup>, 4217,<sup>22</sup> 4381<sup>23</sup> and 4382<sup>24</sup> of this title.

### §4214(b)- 2 Prior Specifically Enumerated Felony Convictions

- If an offender has been convicted two times of a specifically enumerated felony or its equivalent or an attempt of the same, and who shall be subsequently convicted of another of the enumerated felonies, that offender is declared to be an habitual criminal.
- The Court Shall Sentence the Offender to Life unless the sentence of Death has been imposed.
- A life sentence under this section shall be served in its entirety at a full custodial Level V institutional setting without benefit of Probation, Parole, Earned Good Time or any other reduction.
- A life sentence under this section shall not be subject to the Probation or Parole provisions of Chapter 43 of this Title.

<b>11-606</b>	<b>Abuse of a Pregnant Female 1st Degree</b>
<b>11-613</b>	<b>Assault 1st Degree</b>
<b>11-615</b>	<b>Assault by Abuse</b>
<b>11-632</b>	<b>Manslaughter</b>
<b>11-635</b>	<b>Murder 2nd Degree</b>
<b>11-636</b>	<b>Murder 1st Degree</b>
<b>11-763</b>	<b>Rape 2nd Degree</b>
<b>11-764</b>	<b>Rape 1st Degree</b>
<b>11-766</b>	<b>Sodomy 1st Degree</b>
<b>11-771</b>	<b>Rape 3rd Degree</b>
<b>11-772</b>	<b>Rape 2nd Degree</b>

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<sup>21</sup> Title 11, §4205(h): D.O.C. may house inmates at a Level IV halfway house or work-release for the last 180d. of sentence.

<sup>22</sup> Title 11, §4217: D.O.C. may apply to Parole Board who may approve and thereafter apply to Court for modification based on good cause, i.e. exceptional rehabilitation, serious illness or overcrowding.

<sup>23</sup> Title 11, §4381: Earned good time.

<sup>24</sup> Title 11, §4382: Forfeiture of good time.



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<b>11-773</b>	<b>Rape 1st Degree</b>
<b>11-783</b>	<b>Kidnapping 2nd Degree</b>
<b>11-783A</b>	<b>Kidnapping 1st Degree</b>
<b>11-803</b>	<b>Arson 1st Degree</b>
<b>11-825</b>	<b>Burglary 2nd Degree</b>
<b>11-826</b>	<b>Burglary 1st Degree</b>
<b>11-832</b>	<b>Robbery 1st Degree</b>
<b>11-836</b>	<b>Carjacking 1st Degree</b>
<b>16-4751</b>	<b>Manufacture/Deliver/PWID Narcotic</b>
<b>16-4752</b>	<b>Manufacture/Deliver/PWID Nonnarcotic Controlled Substance</b>
<b>16-4752A</b>	<b>Unlawful Delivery/Attempt Noncontrolled Substance</b>
<b>16-4753A</b>	<b>Trafficking in Marijuana, Cocaine, Illegal Drugs or Methamphetamine</b>

- (c) A person who was convicted prior to July 1, 1973 of any of the hereinafter enumerated crimes shall be considered an habitual criminal as described in subsection (b) and shall be sentenced accordingly:

<b>Arson 1st Degree</b>	<b>Kidnapping</b>
<b>Burglary 1st Degree</b>	<b>Abducting Child Under 12 y.o.a.</b>
<b>Burglary 2nd Degree</b>	<b>Kidnapping Child Under 15 y.o.a.</b>
<b>Murder 1st Degree</b>	<b>Maiming by Lying in Wait</b>
<b>Murder 2nd Degree</b>	<b>Rape</b>
<b>Manslaughter (except involuntary)</b>	<b>Assault w/Intent to Commit Rape</b>
<b>Manslaughter by Motor Vehicle</b>	<b>Robbery</b>
<b>Assault w/Intent to Murder</b>	<b>Assault w/Intent to Commit Robbery</b>
<b>Poisoning w/Intent to Murder</b>	

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## **VIOLATION OF PROBATION SENTENCING POLICY**

When a violation of probation hearing is held and determination is made that the offender is guilty of the violation and probation is to be revoked, it is presumed that the offender may move up only one SENTAC level from his/her current level.

### **AGGRAVATING CIRCUMSTANCES**

An offender may have his/her level of supervision raised more than one level if any of the following aggravating circumstances exists:

- A. Conviction of a new offense which was a felony, a violent misdemeanor, or an offense requiring a mandatory sentence.
- B. The violation is a violation of a special treatment condition, e.g., offender willfully refuses to attend the ordered program and, as a result of such refusal, poses a substantial threat to the community or himself. Confinement in this instance should be short-term and could consist of either a Level IV (quasi-incarceration) or a Level V (incarceration), situation until treatment is arranged.
- C. The offender has demonstrated willful failure to make court-ordered payments, and no other alternatives are possible, or those alternatives would depreciate the seriousness of the offense.
- D. The offender is found to be in possession of a weapon, leading to the violation, and the offender has a past history of violence, drug trafficking or weapons violations.
- E. The behavior of the offender represents an immediate threat to the community or an identified victim.
- F. The behavior of the offender is repetitive and flagrantly defies the authority of the court.

### **Length of Level V Sentences - SENTAC Standard**

When a period of incarceration is determined to be the sanction of choice for a violation of probation, a Level V sanction should be in accordance with the current SENTAC standard presumptive sentence for the original crime for which the probation is being served. If the presumptive sentence is less than level V, the sentence for violation of probation should be UP TO 25% of the statutory maximum.

Effective June 30, 1990, all Violation of Probation sentences must be designated as to whether they are "Truth in Sentencing" or "Non TIS" sentences. A defendant who had an original non-TIS sentence and is violated may not be given a TIS sentence for the violation, unless he specifically agrees thereto, and the sentence is given in relation to TIS guidelines. Designation is imperative so that DOC can maintain proper records on the time to be served, goodtime credits, and parole eligibility.

1. Sentencing orders (and worksheet forms) should refer to all violations as "Violation of Level \_\_\_\_", where the blank contains the current level designation.
2. In addition to the above designation, all violation orders, regardless of specific format, should contain the following information:
  - Client name, Effective date of sentence, Original offense, Type of action: i.e. terminated, continued, modified, or revoked as defined above. New sentence Level(s) and time(s), TIS or NON-TIS status, Aggravating factor(s): if necessary due to a two- level (or more) increase, or a longer than standard sentence length at Level V.

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## **Glossary of Violation of Probation Terms:**

### **Continuation**

An order may be entered continuing a probationer on probation where there has been a finding of a violation of probation or a finding that there has been no established violation of probation, and the same conditions remain in place after the finding is entered.

### **Discharge as Unimproved**

An order may be entered discharging a probationer as unimproved upon recommendation of the probation officer or at the discretion of the Court, when the Court determines that continued supervision of the probationer is unlikely to have a beneficial effect, even though one or more terms of the probation order have not been fulfilled.

### **Modification**

An order modifying probation may be ordered when the Court finds that a violation has occurred and the probationer should be kept at the same level or placed at a lower level with additional, more restrictive requirements or altered requirements to more realistically assist the management of the supervision of the probationer.

### **Probation**

As referenced in this section, shall be any sentence of supervision at a level less than incarceration at Level V which is imposed in lieu of, or in addition to, any sentence to said Level V as a result of conviction for any criminal offense.

### **Repetitive Behavior**

The offender persists, after notice, in actions which constitute a pattern of behavior which repeats a past record of non-amenability to community sanctions.

### **Revocation**

An order revoking probation may be entered when it is the intention of the Court to raise the level of intensity of supervision after finding that probation has been violated.

### **Substantial Risk**

The threat of repetitive violations or causing physical injury to self or others is high.

### **Willful Failure to Pay**

A failure to pay a monetary obligation despite the availability of resources with which to pay the obligation, or the refusal to take steps to obtain the resources to pay the obligation.

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## WORK RELEASE POLICY (Department of Correction/Bureau of Prisons)

A program permitting an inmate of proper custody status to work in the community at paid employment. The inmate is still assigned to a Halfway House/Work Release Center when not working or participating in extracurricular programs. Inmates meeting the following standards may be given consideration.

Inmates within 36 months to short-time release date and 9 months to parole eligibility. (Non- TIS offenders only.)

Inmates convicted of a violent crime against person(s) and served more than a year at Level V must have a mental evaluation prior to being considered for the program.

MDT must review and recommend placement.

Inmates with minor open charges can be approved and will be expected to clear the charges; i.e., motor vehicle offenses.

Inmates serving a sentence for a third DUI offense occurring within 5 years from a prior offense are not eligible for work release during the first 3 months of the sentence imposed.

Inmates serving a sentence for a fourth or subsequent offense occurring any time after 3 prior offenses are not eligible for work release during the first 6 months of the original sentence imposed.

### Truth In Sentencing Inmates

1. Sentenced to one year or more under Truth in Sentencing if they are in the last 180 days of their sentence.
2. Truth in Sentencing inmates sentenced to less than 1 year provided, however, the first 5 days be served at Level V, may be classified to work release, unless the court states otherwise.

Inmates serving a Level V sentence with a Level IV sentence to follow.

Inmates must not have had any Class I or major conduct offenses within the last 6 months prior to consideration.

Inmates in the following categories **will not** be given consideration in this program due to either statutory or departmental/bureau policy.

1. Class A Felons, those committed as a Habitual Criminal or those previously convicted of two or more offenses listed herein on page 8 or 9 until within six months of the date of release from custody.
2. Any offender convicted of a sex offense, including but not limited to offenders convicted of any of the following offenses: Unlawful sexual contact in the First or Second Degree, Unlawful sexual penetration in the First, Second, or Third Degree, Unlawful sexual intercourse in the First, Second, or Third Degree, Sexual Extortion, Continuous sexual abuse of a child, Dangerous crimes against a child, Sexual exploitation of a child, Unlawfully dealing in material depicting a child in a prohibited sexual act, or Subsequent convictions of Sec. 1108 or Sec. 1109.
3. Inmates with detainer, unless the detaining authority has given specific written approval for work release.
4. Inmates serving a sentence under 4204K, unless the sentencing judge specifies that work release is allowed.
5. Inmates convicted of escape after conviction or escape 2<sup>nd</sup> and are never eligible for work release.

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Inmates serving minimum mandatory sentences for trafficking are not eligible until the mandatory portion of their sentence is completed. Those serving minimum mandatory sentences for other offenses are eligible after serving 50% of the minimum mandatory, unless minimum term is set by statute. (Non TIS offenders only.)

## **Conditions of Supervision**

1. You must not commit a new criminal offense or moving motor vehicle offense during the supervision period.
2. You must report any new arrest, conviction, or police contact within 72 hours to your Supervising Officer.
3. You must report to your Supervising Officer at such times and places as directed, and permit the Probation/Parole Officer to enter your home and/or visit places of employment.
4. You must have authorization from your Supervising Officer to leave the State of Delaware or your approved state of residence.
5. You must report any changes of residence and/or employment within 72 hours to your Supervising Officer.
6. You must have written approval from your Supervising Officer to own, possess, or be in control of any firearm or deadly weapon. (NOTE: Del. Code Title 11, Section 1448 prohibits purchase, possession, ownership, or control of any deadly weapon by persons convicted of a felony, crime of violence, drug offense, or commitment for a mental disorder.)
7. You are not to possess or consume a controlled substance or other dangerous drugs unless prescribed lawfully. You are subject to random testing as directed by your Supervising Officer.
8. You must pay a supervision fee as required by State Law in accordance with a schedule as established by the Department of Correction.
9. You must comply with any Special Conditions imposed at any time by your Supervising Officer, the Court and/or the Board of Parole.
10. You must not quit a job, training program, or school without prior approval of your Supervising Officer.
11. You must be employed full-time or active in job training or school on a full-time basis. If not, you must attend a Job Search Program or perform Community Service on a schedule established by the Supervising Officer.
12. You must participate in 0-35 hours of community service each week as directed by your Supervising Officer.
13. You must abide by a curfew established by your Supervising Officer.

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## **LEGISLATIVE UPDATE**

**Compilation of changes affecting the Benchbook from the 143rd General Assembly listed by statute number (as of September 2006). The changes herein listed have also been included under the Classifications and Notations and take into account all House and Senate amendments and substitutions.**

### **TITLE 11**

**§617: Synopsis-** Creates a new felony for the recruitment or retention of juveniles in criminal street gangs. The goal is to protect juveniles and students from gang members who try to get them to participate in groups that require the submission to violent or sexual acts or the commission of a crime to be a member. It also protects juveniles and students from gang members who threaten the person, their family or property in order to get the juvenile to join, stay in or submit to the demands of the gang. The new crime: Criminal Youth Gang was also added to the list of violent felonies under Title 11, §4201(c).

#### **§617. Criminal Youth Gang.**

(a) Definitions. The following words, terms and phrases, when used in this Chapter, shall have their meaning ascribed to them except where the context clearly indicates a different meaning.

(1) 'Criminal youth gang' shall mean a group of three (3) or more persons with a gang name or other identifier which either promotes, sponsors, assists in, participates in or requires as a condition of membership submission to group initiation that results in any felony or class A misdemeanor set forth in Titles 11 through 16.

(2) 'Identifier' shall mean common identifying signs, symbols, tattoos, markings, graffiti, or attire or other distinguishing characteristics or indicia of gang membership.

(3) 'Student' shall mean any person enrolled in a school grades preschool through twelve.

(b) Recruitment or retention of juveniles or students for a criminal street gang or criminal youth gang; Penalties.

(1) Any person who solicits, invites, recruits, encourages or otherwise causes or attempts to cause a juvenile or student to participate in or become a member of a criminal street gang as defined in § 616(a), Title 11 of the Delaware Code or criminal youth gang is guilty of a class G felony.

(2) Any person who,

(a) In order to encourage a juvenile or student to:

(i) join a criminal youth gang or criminal street gang,

(ii) remain as a participant in or a member of a criminal youth gang or criminal street gang, or

(iii) submit to a demand by a criminal youth gang or criminal street gang to commit a crime; or

(b) In order to prevent a juvenile or student from withdrawing or attempting to withdraw from a criminal youth gang or criminal street gang threatens to commit any crime likely to result in death or in physical injury to the juvenile, his property, a member of his family or household, or their property; or commits a crime which results in physical injury or death to the juvenile, his property, a member of his family or household, or their property shall be guilty of a class F felony and shall constitute a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby."

Amend § 4201(c), Title 11 of the Delaware Code by adding a new paragraph to read as follows: "§ 617. Criminal youth gang.". (HB 485)

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**§812: Synopsis-** Makes possession of a graffiti implement or tool an unclassified misdemeanor, and provides the same penalties for that crime as are currently imposed for the act of graffiti.

Previous statute deleted in its entirety and replaced with the following:

**“§812. Graffiti and Graffiti Implements.**

- (a) A person is guilty of the act of graffiti when the person damages public or private real or personal property without permission of the owner by knowingly, purposely, or recklessly drawing, painting, or making any significant mark or inscription thereto.
- (b) A person is guilty of possession of graffiti implements when he possesses any tool, instrument, article, substance, solution or other compound designed or commonly used to etch, paint, cover, draw upon or otherwise place a mark upon a piece of property which that person has no permission or authority to etch, paint, cover, draw or otherwise mark, under circumstances evidencing an intent to use the same in order to damage such property.
- (c) The penalty for a first offense under this section shall be a mandatory fine of not less than \$200 nor more than \$1,000, the first \$200 of which shall not be suspendable, plus restitution for damages to the property and 200 hours of community service, at least half of which shall be served removing graffiti on public property. For second and subsequent offenses, the nonsuspendable portion of the fine shall increase to \$500, and the hours of community service shall increase to 400. Portions of the fine may be used to pay for the cost of supplies for public property graffiti removal and supervision of such graffiti removal.” (SB 87)

**§841A: Synopsis-** Makes the theft of all motor vehicles a felony regardless of the vehicle's value.

Adds a new statute as follows:

**§ 841A. Theft of a motor vehicle; class G felony.**

- (a) A person is guilty of theft of a motor vehicle when the person takes, exercises control over or obtains a motor vehicle of another person intending to deprive the other person of it or appropriate it.
- (b) As used in this section "motor vehicle" means an automobile, motorcycle, van, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle which is self-propelled, which is designed to be operated primarily on a roadway as defined in § 101 of Title 21, and in, upon or by which any person or property is or may be transported. "Motor vehicle" as used in this section shall not include any device that is included within the definitions of "moped", "off-highway (OHV)", "triped", "motorized scooter or skateboard", "motorized wheelchair" or "electric personal assistive mobility device (EPAMD)" as defined in § 101 of Title 21.

- (c) Theft of a motor vehicle is a class G felony. (HB 374)

**§858: Synopsis-** Creates a Class B misdemeanor for taking unauthorized photographs of a motion picture and a Class A misdemeanor for the unauthorized recording of a motion picture with fines up to \$50,000.

**§ 858. Unlawful operation of a recording device.**

- (a)(1) Any person who knowingly operates the audiovisual recording function of any device in a motion picture theater while the motion picture is being exhibited, for the purpose of distributing or transmitting a still photographic image of the motion picture, without the consent of the motion picture theater owner, is guilty of a class B misdemeanor.



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(2) Any person who knowingly operates the audiovisual recording function of any device in a motion picture theater for the purpose of recording a motion picture, while the motion picture is being exhibited, without the consent of the motion picture theater owner, is guilty of a class A misdemeanor which notwithstanding any law to the contrary, may also include a fine of up to \$50,000.

(b) The term "audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.

(c) The term "motion picture theater" means a movie theater, screening room, or other public venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense.

(d) A motion picture theater owner, a supervisor, agent or employee, 18 years of age or older, who has probable cause to believe that a person has recorded or transmitted a substantial portion of a motion picture and has intentionally violated paragraph (a)(2) of this section, may, for the purpose of summoning a law enforcement officer, take the person into custody and detain the person in a reasonable manner on the premises for a reasonable time.

(e) A motion picture theater owner, a supervisor, agent or employee, 18 years of age or older who detains a person pursuant to subsection (d) of this section, or who causes or provides information leading to the arrest of any person under subsection (a) of this section, shall not be held civilly or criminally liable for such detention or arrest provided they had, at the time of such detention or arrest, probable cause to believe that the person committed a crime defined in subsection (a) of this section.

(f) A motion picture theater owner, a supervisor, agent or employee, 18 years of age or older, who has probable cause to believe that a person has committed a crime defined in subsection (a) of this section may eject such person from the premises and shall not be held civilly or criminally liable for such ejection.

(g) This section does not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent, of the local, state or federal government, from operating any audiovisual recording device in a motion picture theater, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities. (SB 321)

**§922 & 924A: Synopsis-** Increases the penalties for improper labeling of 100 or more pirated sound recordings by making it a class G felony or class F felony, if previously convicted. It also provides a new statute, §924A, mandating upon conviction that the court shall order the equipment used to make the illicit copies be forfeited and destroyed.

Amends §922 by:

Deleting from the title the phrase "labeling; unclassified misdemeanor" and replacing it with the phrase "labeling; class G felony" and by deleting from subsection (a), the phrase "outside cover, box, or jacket" and replacing it with the phrase "cover, box, jacket, or label."

Amending subsection (b) by inserting after the word "section" the following: "involving 100 or more improperly labeled sound recordings shall constitute a class G felony, otherwise it is..."

Adding a new subsection "(c)" to read as follows:

"(c) A second or subsequent violation of the Section involving 100 or more improperly labeled sound recordings, or in which the second or subsequent violation plus any and all prior violations of this section added together involve 100 or more improperly labeled sound recordings, shall constitute a class F felony."

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## **§924A. Forfeiture.**

If a person is convicted of a violation of §922, the court in its sentencing order shall order the forfeiture and destruction or other disposition of:

- i. all articles on which the conviction is based; and
- ii. all implements, devices, materials, and equipment used or intended to be used in the manufacture of the recordings on which the conviction is based." (HS1 for HB 388)

**§926: Synopsis-** Adds trademark counterfeiting to Title 11 of the Delaware Code.

## **§ 926. Trademark counterfeiting.**

(a) Any person who knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses with intent to sell or distribute any items or services bearing or identified by a counterfeit mark shall be guilty of the crime of trademark counterfeiting.

(b) Definitions. -- As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

(1) "Counterfeit mark" means:

a. Any unauthorized reproduction or copy of intellectual property.

b. Intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed or identifying services offered or rendered, without the authority of the owner of the intellectual property.

(2) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design or word adopted or used by a person to identify that person's goods or services.

(3) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

(c) Presumption. -- A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess said items with intent to sell or distribute.

(d) Penalties. --

(1) Except as provided in paragraphs (2) and (3) of this subsection, a violation of this section constitutes a class A misdemeanor.

(2) A violation of this section constitutes a class G felony if:

a. The defendant has previously been convicted under this section; or

b. The violation involved more than 100 but less than 1,000 items bearing a counterfeit mark or the total retail value of all items or services bearing or identified by a counterfeit mark is more than \$2,000, but less than \$10,000.

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(3) A violation of this section constitutes a class E felony if:

a. The defendant has been previously convicted of two or more offenses under this section;

b. The violation involved the manufacture or production of items bearing counterfeit marks; or

c. The violation involved 1,000 or more items bearing a counterfeit mark or the total retail value of all items or services bearing or identified by a counterfeit mark is \$10,000 or more.

(e) Quantity or retail value. -- The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items or services bearing or identified by every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.

(f) Fine. -- Any person convicted under this section shall be fined not less than \$5,000 or an amount up to 3 times the retail value of the items or services bearing or identified by a counterfeit mark, whichever is greater, unless extenuating circumstances are shown by the defendant.

(g) Seizure, forfeiture and disposition. --

(1) Any items bearing a counterfeit mark, and all personal property, including, but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, knowingly employed or used in connection with a violation of this section may be seized by any law enforcement officer.

(2) All seized personal property referenced in paragraph (1) of this subsection shall be forfeited in accordance with applicable law, unless the prosecuting attorney responsible for the charges and the intellectual property owner consent in writing to another disposition.

(h) Evidence. -- Any federal or state certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein. (HB 225)

**§1245: Synopsis-** Adds false reporting of a child abduction to the false reporting statute and increases the minimum fine for such offense from \$500 to \$1,000.

Adds a new paragraph "(d) to 1245(3) which reads as follows:

"d. The alleged abduction of a child which would generate the activation of a state-wide and inter-state alert response and law enforcement broadcast when such abduction has not, in fact, occurred."

Amends 1245(4) by adding after the number "\$500" the following words: "or less than \$1,000 for a violation of subsection (3)d,". (HB 230)

**§1257: Synopsis-** Creates the offense of Resisting Arrest with Force or Violence as a Class G Felony and reorganizes the statute, maintaining Resisting Arrest without force or violence as a Class A misdemeanor.

The title of the offense has been changed to: "Resisting Arrest with Force or Violence, class G felony, resisting arrest, class A misdemeanor."

A new subsection "(a)" was added as follows:

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(a) A person is guilty of resisting arrest with force or violence when:

(1) The person intentionally prevents or attempts to prevent a police officer from effecting an arrest or detention of the person or another person by use of force or violence towards said police officer, or

(2) Intentionally flees from a police officer who is effecting an arrest against them by use of force or violence towards said police officer, or

(3) Injures or struggles with said police officer causing injury to the police officer.

Resisting arrest with force or violence is a class G felony.

The original Class A misdemeanor section remains but is redesignated as subsection "b." (HB 362)

**§1303: Synopsis-** Prohibits committing disorderly conduct near a military funeral, memorial service, funeral procession, or burial and establishes penalties.

Adds new statute as follows:

**§ 1303. Disorderly conduct; funeral or memorial service.**

(a) A person shall not do any of the following within 300 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

(1) Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

(2) Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession or burial.

(b) This section applies to conduct within 1 hour preceding, during and within 2 hours after a funeral, memorial service, funeral procession or burial.

(c) A person who commits a violation of this section commits:

(1) A class A misdemeanor for a first offense.

(2) A class F felony for a second or subsequent offense.

(d) This section shall not preclude any county or municipality from legislating and enforcing its own more restrictive law in this regard.

**§1335: Synopsis-** Criminalizes the installation of an electronic or mechanical tracking device on a motor vehicle without the consent of the owner, lessor or lessee of said vehicle. This prohibition does not apply to law enforcement officers or to parents or guardians who wish to track the location of a minor child.

Adds a new paragraph "(8)" to §1335(a) and reads as follows:

"(8) Knowingly installs an electronic or mechanical location tracking device in or on a motor vehicle without the consent of the registered owner, lessor or lessee of said vehicle. This paragraph shall not apply to the lawful use of an electronic tracking device by a law enforcement officer, nor shall it

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apply to a parent or legal guardian who installs such a device for the purpose of tracking the location of a minor child thereof."

Amends §1335(c) to add (a)(8) to the class A misdemeanors. (HB 392)

**§1446A: Synopsis-** Creates a new statute which bans the manufacture, sale and possession of undetectable knives. Knives are currently being sold that boast that they are undetectable because they are made of high tech composites and thus, would not be picked up through a metal detector.

**§ 1446A. Undetectable knives; commercial manufacture, import for commercial sale, or offers for commercial sale; or possession.**

(a) Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, keeps for commercial sale, or offers or exposes for commercial sale, or who possesses any undetectable knife is guilty of a class G felony. As used in this section, an "undetectable knife" means any knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict serious physical injury or death that is commercially manufactured to be used as a weapon and is not detectable by a metal detector or magnetometer because there is no material permanently affixed that would be detectable by a metal detector or magnetometer, either handheld or otherwise, that is set at standard calibration.

(b) Notwithstanding any other provision of law, all knives or other instruments with or without a handguard that are capable of ready use as a stabbing weapon that may inflict serious physical injury or death that are commercially manufactured in this state that utilize materials that are not detectable by a metal detector or magnetometer, shall be manufactured to include permanently installed materials that will ensure they are detectable by a metal detector or magnetometer, either handheld or otherwise, that is set at standard calibration.

(c) This section shall not apply to the manufacture or importation of undetectable knives for sale to a law enforcement or military entity nor shall this section apply to the subsequent sale of these knives to law enforcement or military entity.

(d) This section shall not apply to the manufacture or importation of undetectable knives for sale to federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that the undetectable knives are properly housed and secured from unauthorized handling, nor shall this section apply to the subsequent sale of the knives to these societies, museums, and collections. (HB 500)

**§1448(a): Synopsis-** Prohibits the possession of deadly weapons or ammunition by persons who are fugitives from justice in any criminal case involving a felony charge.

New paragraph added:

"(8) Any person who, knowing that he or she is the defendant or co-defendant in any criminal case in which he or she is alleged to have committed any felony under the laws of this State, the United States or any other state or territory of the United States, becomes a fugitive from justice by failing to appear for any scheduled court proceeding pertaining to such felony for which proper notice was provided or attempted. It is no defense to a prosecution under this paragraph that he person did not receive notice of the scheduled court proceeding." (HB 148)

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**§4101(e): Synopsis-** Adds a new subsection "(e)" to §4101, requiring that the conviction data relating to teachers be transmitted to the employing school district and/or school. This legislation is applicable to any convictions after enactment (July 10, 2006).

Adds new subsection "(e)" as follows:

"(e)(1) Any school teacher or administrator who holds a license or certificate under Title 14 of the Delaware Code or who is a teacher or administrator in a charter school but is exempt from licensing under § 507(c) of this Title or is a teacher or administrator employed by any State agency or under contract to a State agency who is convicted of a violation of § 904(c) of Title 4 of the Delaware Code, Title 11 of the Delaware Code, Chapter 47 of Title 16 of the Delaware Code, Subchapter IX of Chapter 41 of Title 21 of the Delaware Code and Chapter 23 of Title 23 of the Delaware Code, or a similar statute of another state, commonwealth or the District of Columbia, except fine-only offenses, the Court shall forward a copy of the conviction data to the employing school district's superintendent or school person-in-charge.

(2) If the arrest and conviction occurs outside the State of Delaware, the teacher or administrator shall notify the superintendent or school person-in-charge by providing copies of the conviction documents and sentence.

A teacher or administrator who fails to comply with subsection (e)(2) of this section shall be guilty of a class B misdemeanor." (HS1 for HB 509)

**§4205A: Synopsis-** A new statute requiring that defendants convicted of 11-771(a)(2), 11-772, 11-773, 11-778, 11-779 shall be sentenced to a minimum of 25 years at level V up to life if previously convicted or adjudicated delinquent of any sex offense under Title 11 classified as a class A or B felony, or any similar offense under the laws of another state, the United States or any territory thereof; or the victim of the instant offense is a child less than fourteen (14) years of age. It is to be known as "Jessica's Law." A fiscal report detailing the financial impact of this legislation will be submitted on its effects by March 15, 2008. (HB 404)

## **TITLE 16**

**§4714(d): Synopsis-** This Bill outlaws salvia divinorum and includes it as a Schedule I controlled substance with other hallucinogenic substances. Salvia has been banned in two other states to date. The Federal Drug Enforcement Agency considers salvia divinorum a "drug of concern" because of its wide availability, potential for abuse, and hallucinogenic effects.

Adds a new paragraph "(24) Salvia divinorum." (SB 259)

**§4740: Synopsis-** This new statute makes it more difficult for methamphetamine manufacturers to obtain ingredients needed to make the drugs. It also creates a criminal penalty for violations of this act.

### **§ 4740. Sale of pseudoephedrine or ephedrine.**

(a) If any material, compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or ephedrine, its salts or optical isomers, or salts of optical isomers is dispensed, offered for sale, sold or distributed:

(1) It shall be dispensed, offered for sale, sold, or distributed only from behind a checkout counter, pharmacy counter, or in a locked storage container where the public is not permitted.

(2) A licensed pharmacist, sales clerk, or licensed pharmacy technician shall require that any person purchasing, receiving, or otherwise acquiring any such substance shall be age 18 or older,

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produce a photo identification showing the date of birth of the person, and sign a written log or receipt showing the date of the transaction, name of the person, and the amount of such substance. The written log or receipt shall be retained for at least 12 months.

(3) No person, other than a pharmacy or retail establishment, shall purchase, receive, or otherwise acquire more than 9 grams of any such substance within any 30-day period.

(b) A violation of this section is a class A misdemeanor. (SS1 for SB 110)

**§4764(b)&(c): Synopsis-** This change brings the length of probation under the Boot Camp First Offenders' Program and the Drug Offense First Offenders' Program into conformity with the 18 month probation for drug offenses.

The words "3 years" were deleted and replaced with the words "one and one-half years." Anyone currently serving a first offenders' program may petition the court to have the ordered probationary period reduced to one and one-half years pursuant to this statute. (SB 84)

## **TITLE 21**

**§4103(b): Synopsis-** The penalty for failure to stop for a police officer was changed to a class G felony for a first offense and a class E felony for a subsequent offense. It shall be an affirmative defense to this section if the driver proceeds at or below the posted speed limit to a safe location or, at nighttime to a well lit reasonable location and stops the vehicle at the point that the driver is not guilty of this section.

**§4103(b)** was amended to:

Delete the phrase "fined for the first offense not less than \$575 nor more than \$2,000, or imprisoned for not less than 60 days nor more than 6 months or both" and replaced with "guilty of a class G felony, with a minimum fine of \$575 which may not be suspended.

Delete the phrase in the third sentence "fined not less than \$1,150 nor more than \$3,450 and imprisoned not less than 60 days nor more than 18 months" and replaced with "class E felony, with a minimum fine of \$1,150 which may not be suspended."

Adding the phrase at the end: "It shall be an affirmative defense for this Section if the driver proceeds at or below the posted speed limit to a safe location or, at nighttime to a well lit reasonable location and stops the vehicle at that point that the drive is not guilty of this Section." (HB 363)

## **TITLE 23**

**§2301, 2302, and 2303: Synopsis-** The blood alcohol concentration was lowered from 0.10 to 0.08 for a violation of operating a vessel or boat while under the influence of alcohol.



# BAIL GUIDELINES

## Summary Grid:

<u>LEAD OFFENSE</u>	<u>MONETARY RANGE</u>	<u>ENHANCED SUPERVISORY ALTERNATIVES</u>
<b>A. Trafficking in Narcotic/ NonNarcotic Drugs:</b>		
1. Marijuana	\$1,000.00 secured per pound	
2. Hashish	\$1,000.00 secured per ounce	
3. Methamphetamine, amphetamine, phencyclidine, and drugs not mentioned above	\$1,000.00 secured per gram	
4. Cocaine, heroin and other narcotic drugs	\$2,000.00 secured per gram	
<b>B. Manufacturing, Possession with Intent to Deliver or Delivery of Narcotic or Non-Narcotic Drugs:</b>		
1. Marijuana:		
a. Less than 1 pound	\$1,000.00 - \$3,000.00 unsecured	
b. 1 pound or more	\$500.00 secured per pound	
2. Hashish:		
a. Less than 1 ounce	\$1,000.00 - \$3,000.00 unsecured	
b. 1 ounce or more	\$500.00 secured per ounce	
3. Cocaine, heroin, methamphetamines, amphetamine, phencyclidine and other narcotic or non-narcotic drugs not mentioned above	\$5,000 secured or secured bail in the amount of the street value of the drugs, whichever is greater	
<b>C. Possession of Narcotic Drugs</b>		
<b>1. First Offense</b>	\$500 - \$1,000 unsecured	Level II supervision
<b>2. Defendant has prior Title 16 convictions</b>	\$500 - \$1,000 unsecured	Level II supervision
<b>D. Possession of Non-Narcotic Drugs</b>	\$500 - \$1,000 unsecured	
<b>E. Other Drug Charges</b>	\$500 - \$1,000 unsecured	

<b><u>Classification Lead Offenses</u></b>	<b><u>Monetary Range</u></b>	<b><u>Enhanced Supervisory Alternatives</u></b>
Murder 1st Degree	Hold w/o bail	Hold w/o bail alternatives
Class A Felony	\$20,000 - \$50,000 secured	
Class B Felony	\$10,000 - \$30,000 secured	
Class D Felony (Violent)	\$1,000 - \$5,000 secured	Level IV halfway house or electronic monitoring
Class D Felony (Non-Violent)	\$1,000 - \$5,000 unsecured	Level III supervision, Level II supervision
Class E Felony (Violent)	\$500 - \$3,000 secured	Level IV halfway house
		Level IV elect monitoring
		Level III supervision
Class E Felony (Non-Violent)	\$500 - \$3,000 unsecured	Level II supervision
Class F Felony (Violent)	\$250 - \$1,500 secured	Level IV elect monitoring, Level III supervision
Class F Felony (Non-Violent)	\$250 - \$1,500 unsecured	Level II supervision
Class G Felony (Violent)	\$250 - \$1,000 secured	Level III supervision
Class G Felony (Non-Violent)	\$250 - \$1,000 unsecured	Level II supervision
Class A Misdemeanor (Violent)	\$100 - \$500 unsecured	Level II supervision
Class A Misdemeanor (Non-Violent)	OR up to \$500 unsecured	None
Class B Misdemeanor	OR up to \$100 unsecured	None
Unclassified Misdemeanor	Or up to \$50 unsecured	None
Violations	Or up to \$25 unsecured	None

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## Recommended Bail Involving Failure to Appear for Arraignment, Case Review or Trial:

### Title 11 Offenses

Class A Misdemeanor -\$500.00 (per charge) Class B Misdemeanor -\$200.00 (per charge) Class C Misdemeanor and Violation -\$100.00 (per charge)

### Motor Vehicle Offenses

Driving Under the Influence, Driving During Suspension or Revocation, Failing to Stop at Command of Police Officer {\$4103(b)}. Leaving the Scene of a Personal Injury Accident, Driving Without Consent of Owner and Tampering -\$500.00 (per charge)

Driving Without Insurance, Reckless Driving, Driving Without A Valid License, Fictitious Tags, Leaving the Scene of An Accident, Failing to Answer Summons -\$200.00 (per charge)

All other motor vehicle offenses -(\$100.00) per charge

For failure to appear for sentencing and probation violations, double the amount scheduled above.

For failure to pay fines, costs, restitution -the amount due. -

For second *capias*' (in *all* cases except failure to pay) -double the amount.

For third and subsequent *capias*' -no bail.

## AGGRAVATING FACTORS FOR BAIL

An unsecured bail guideline recommendation may, in the ordinary case, be converted to a secured bail amount whenever any one of the following non-exclusive (1-3) aggravating factors is present:

1. Two or more *capias* for failure to appear have been issued for the defendant within three years from the date of the instant offense and none resulted in the defendant's voluntary surrender to the issuing authority. (Every effort should be made to obtain the records from the other Court's concerning *capias* issued for the defendant.)
2. The defendant has shown a tendency toward repetitive criminal conduct, to wit:
  - a. The defendant has been twice or more convicted of committing the same violent offense as the instant offense within five years preceding the date of the instant offense during which the defendant was not incarcerated, *or*
  - b. The defendant has three times or more been convicted of the same non-violent offense within three years from the date of the instant offense.
3. The defendant's prior criminal record consists of at least the two felony convictions, or at least four misdemeanor convictions excluding Title 21 traffic convictions within the past three years.
4. The defendant has shown a lack of amenability to less restrictive measures through violation of a prior period of probation or a failure to meet substantive conditions during a prior or current period of probation.
5. The defendant was on a conditional release status from the Department of Corrections on the date of the instant offense.
6. Defendant was on bail, either having posted a secured bail or having been released on unsecured bail or on the defendant's own recognizance, at the time of the commission of a new offense.
7. The prosecutor or police officer proffers facts to the Court which demonstrate that the defendant was aware before his arrest that the charge or charges for which bail is to be set had been filed thereafter the defendant intentionally attempted to evade arrest on such charge or charges.
8. A fugitive's warrant has been issued against the defendant or he or she is a prison deserter from the military. (1-5)
9. The offense was allegedly committed against a victim who is considered to be helpless or defenseless: i.e., the victim is very young or very old, either physically or mentally handicapped, etc.
10. The defendant is a non-resident and at least one other factor exists which makes it unlikely, in the Court's view that the defendant will appear for future court proceedings without secured bail being set.
11. The crime was committed for the purpose of avoiding or preventing an arrest or for the purpose of effecting an escape from custody.
12. The crime was committed against a person who was a witness to a crime for the purpose of preventing that witness's appearance or testimony in any grand jury, criminal or civil proceeding.
13. Both the aggravating and mitigating factors listed herein are provided as examples and are not intended to be exclusive reasons justifying departures from the bail guidelines.
14. If a defendant is charged with committing a subsequent offense while a bail for having committed a prior offense, especially a violent, offense. Justices of the Peace are encouraged to set a high-secured amount as the circumstances of each individual case may justify.
15. See legal memorandum no. 61-75
16. Numerous convictions for Driving Under the Influence, Driving During Suspension or Revocation and Failure to stop at the Command of a Police Officer should not be excluded from consideration of the defendant's prior convictions.

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## MITIGATING FACTORS FOR BAIL

A secured bail guideline recommendation may, in the ordinary case, be converted to an unsecured bail whenever any of the of the following non-exclusive mitigating factors is present:

1. The defendant has demonstrated through recent behavior that it is likely that he or she will appear at scheduled court dates, obey court orders and will not endanger victims, witnesses or the public in general.
2. The defendant has ties to the community, which suggest that he or she is unlikely to flee prior to scheduled court dates. Such factors include a stable job and family ties to the community.
3. The defendant's record shows no prior criminal convictions, excluding Title 21 traffic violations.
4. To a significant degree, the victim was an initiator, willing participant, aggressor **or** provoker of the incident.
5. Before detection, the defendant compensated or made a good faith effort to compensate the victim of the criminal conduct for any damage or injury sustained or, before detection, the defendant sought professional help for drug/alcohol treatment or any other sought professional help for drug/alcohol treatment or any other recognized compulsive behavioral disorders related to the offense.
6. The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.
7. The defendant, because of physical or mental impairment lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants (drugs or alcohol) does not fall within the purview of this factor.
8. The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well being of the victim.
9. The defendant has or is willing to cooperate with the police with regard to an ongoing investigation and the police for prosecution requests low or unsecured bail because of this fact.
10. The defendant entertains an honest and reasonable belief that his or her actions causing arrest were justifiable and legal.

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## **Bail Guidelines: Alphabetical Listing**

### **Offense/Statute/Classification/Pretrial Supervision/Monetary Range**

#### **A**

Abandonment of Child 11-1101 Misd. (A) None OR - \$500 unsecured  
Abet. Vio. Driver's Lic. Rest. (2<sup>nd</sup> off/death) 11-1249 Felony (G) Lv2 \$250 – 1,000 unsecured  
Abetting Violation of Driver's Lic. Restriction 11-1249 Misd. (A) None OR - \$500 unsecured  
Abortion 11-651 Felony (F-viol.) Lv4-HCP/Lv3 \$250 –1,500 secured  
Abortion. Self 11-652 Misd. (A) None OR - \$500 unsecured  
Abuse of Infirm Adult (Causing Death) 31-3913 Felony (A) N/A \$20,000 - 50,000 secured  
Abuse of Infirm Adult (Causing bodily harm) 31-3913(c) Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Abuse, Neglect of Infirm Adult 31-3913 Misd. (A-viol.) Lv,2 OR - \$500 unsecured  
Abuse of Patient in Res. Fac. (Causing death) 16-1136 Felony (A) N/A \$20,000 - 50,000 secured  
Abuse, Neglect of Patient in Res. Fac. (inj.) 11-1136 Felony (D-viol.) Lv4-HW/HCP \$1,000 -5,000 secured  
Abuse of Patient in Residential Facility 16-1136 Misd. (A-viol.) Lv2 OR - \$500 unsecured  
Abuse of Pregnant Female I 11-606 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Abuse of Pregnant Female II 11-605 Felony (C-viol.) Lv4.HW \$2,000- 10,000 secured  
Abusing a Corpse 11-1332 Misd. (A) None OR - \$500 unsecured  
Adulteration (Causing death) 11-1339 Felony (A) N/A \$20,000 - 50,000 secured  
Adulteration (Causing injury) 11-1339 Felony (E-viol.) Lv4-HCF/Lv3 \$500 - 3,000 secured  
Adulteration (no injury) 11-1339 Felony (G) Lv2 \$250 - 1,000 unsecured  
Advancing Gambling I/II 11-1401/03 Misd. (A) None OR - \$500 unsecured  
Advertisement of Drug Paraphernalia 16-4774 Misd. (Unclass.) None OR - \$50 unsecured  
Aggravated Harassment 11-1312.1 Felony (G) Lv2 \$250 - 1,000 unsecured  
Aggravated Intimidation 11-3533 Felony (D-viol.) Lv4-HW/HCP \$1,000-5,000 secured  
Aggravated Menacing 11-602(b) Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Aggravated Criminal Non-Support (2<sup>nd</sup> off, 8+ consec mos. delinq., or arrears \$10,000+) 11-1113 Felony(G) Lv2 \$250 -1,000 unsecured  
Aggravated Criminal Non-Support 11-1113 Misd. (A) None OR - \$500 unsecured  
Alteration of Gun Numbers 11-1459 Felony ((D)viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Arson I 11-803 Felony (C)viol.) Lv4-HW \$2,000 -10,000 secured  
Arson II 11-802 Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Arson III 11-801 Felony (G) Lv2 \$250 - 1,000 unsecured  
Assault I 11-613 Felony (C-viol.) Lv4-HW \$2,000 -10,000 secured  
Assault I on Law Enforc. Animal (Death/Scr.) 11-1250(c) Felony (D-viol.) Lv4-HW/HCP \$ 1,000 -5,000 secured  
Assault II on Law Enforc. Animal (risk inj.) 11-1250(b) Misd. (A-viol.) Lv2 OR - \$500 unsecured  
Assault II 11-612 Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Assault III 11-611 Misd. (A-viol.) Lv2 OR - \$500. unsecured  
Assault by Abuse or Neglect (Child) 11-615 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Assault in Detention Facility (Serious Injury) 11-1254(b) Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Assault in Detention Facility 11-1254 Felony (D-viol.) Lv4-HW/HCP \$1,000 –5,000 secured  
Assault on Sports Official (2+ offense) 11-614 Felony (G-viol.) Lv3 \$250 - 1,000 secured  
Assault on Sports Official (1<sup>st</sup> offense) 11-614 Misd. (A-viol.) Lv2 OR - \$500 unsecured

#### **B**

Beastiality 11-777 Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Being Concm. in Int. in fCeep. Gambling Dev. 11-1406 Misd. (A) None OR - \$500 unsecured  
Benefit by False Representation >SI 0.000 31-1003 Felony (Q Lv3 \$2,000 - 10,000 unsecured  
Bigamy 11-1001 Felony (G) Lv2 \$250 -1,000 unsecured  
Body Piercing <fe Tattoos (2- offense) 11-1114 Misd. (A) None OR - \$500 unsecured  
Body Piercing Sc Tattoos (1<sup>st</sup> offense) 11-1114 Misd. (B) None OR - \$100 unsecured  
Breach of Release (underlying felony charge) 11.2113 Felony (G) Lv2 \$250 - 1,000 unsecured  
Breach of Release (underlying misd. charge) 11-2113 Misd. (Unclass.) None OR - \$50 unsecured  
Bribery - (Juror) 11-1264/65 Felony (E) Lv2 \$500 - 3,000 unsecured  
Bribery - (Public Servant) 11,1201/03 Felony (5) Lv2 \$500 - 3,000 unsecured  
Bribery - (Tampering with Witness) 11-1261/63 Felony (E) Lv2 \$500 - 3,000 unsecured  
Bribery - (non-public servant) 11-881/882 Misd. (A) None OR - \$500 unsecured  
Burglary I 11-836 Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Burglary II 11-825 Felony (D-viol.) Lv4-HW/HCP \$1,000-5,000 secured  
Burglary III 11-824 Felony (F) Lv2 \$250 – 1,500 unsecured

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**C**

Carjacking I (poss./display weap.. cause Phys. Injury to another, 62- or 14-) 11-836 Felony (B-viol.) N/A \$10,000-30,000 secured  
Carjacking I (poss. veh./com. Fel(D). oper. in viol. 21-4177 or I6-Chap.47) 11-836 Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Carjacking II (creates risk of death of ser. phys. injury, compel occup. to leave car, causes vehicle to be oper. recklessly) 11-835 Felony (D-viol.) Lv4.HW/HCP \$1,000 - 5,000 secured  
Carjacking II 11-835 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Carrying Concealed Dangerous Instrument 11-1443 Misd. (A-viol.) Lv2 OR - \$500 unsecured  
Carrying Concealed Deadly Weapon (sub.) 11-1442 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Carrying Concealed Deadly Weapon 11-1442 Felony (G) Lv2 \$250 - 1,000 unsecured  
Child Sex Solicitation 11-1112(A) Felony (C-vioi.) Lv4-HW \$2,000 - 10,000 secured  
Coercion 11-791 Misd. (A) None OR - \$500 unsecured  
Compounding a Crime 11-1246 Misd. (A) None OR - \$500 unsecured  
Computer Crime I 11-937(a) Felony (D) Lv2 \$1,000 - 5,000 unsecured  
Computer Crime II 11-937(b) Felony (E). Lv2 \$500 - 3,000 unsecured  
Computer Crime III ' 11-937(c) Felony (F) Lv2 \$250 - 1,500 unsecured  
Computer, Crime IV 11-937(d) Felony (G) Lv2 \$250- 1,000 unsecured  
Computer Crime V 11-937(e) Misd. (A) None OR - \$500 unsecured  
Computer Crime (Fail to cease) > \$ 10,000 11-938 Felony (D) Lv2 \$1,000 - 5,000 unsecured  
Computer Crime (Fail to cease) - \$5K - IOK 11-938 Felony (E) Lv2 \$500 - 3,000 unsecured  
Computer Crime (Fail to cease) - \$1K - 5K (or creates risk of serious phy. injury to another) 11-938 Felony (F) Lv2 \$250 - 1,500 unsecured  
Computer Crime (Fail to cease) - \$500 - 1K 11-938 . Felony (G) Lv2 \$250 -1,000 unsecured  
Computer Crime (Fail to cease) < \$500 11-938 Misd. (A) None OR - \$500 unsecured  
Conspiracy I 11-513 Felony (E-vioi.) Lv4-HCP/Lv3 \$500-3,000 secured  
Conspiracy II 11-512 Felony (G) Lv2 \$250 -1,000 unsecured  
Conspiracy III 11-511 Misd. (A) None OR - \$500 unsecured  
Continuous Sexual Abuse of a Child 11-778 Felony (B-viol.) N/A \$10,000-30,000 secured  
Conversion of Benefits 31-1006 Felony (E) Lv2 \$500 - 3,000 unsecured  
Crimes Regarding Vital Records I6-311I(a) Felony (E) Lv2 \$500-3,000 unsecured  
Criminal Contempt (all others) 11-1271 Misd. (A) None OR - \$500 unsecured  
Criminal Contempt (in-court bad behavior) 11-1271(1) Misd. (B) None OR-\$ 100 unsecured  
Criminal Contempt of PFA Order (result in phy. injur., threat/deadly weap., 3+ off.) 11-1271A Misd. (A-viol.) Lv2 OR - \$500 unsecured  
Criminal Contempt of PFA Order (I st -2 nd) 11-1271A Misd. (A) None OR - \$500 unsecured  
Criminal Impersonation (Accident Related) 11-907A Felony (G) Lv2 \$250 -1,000 unsecured  
Criminal Impersonation 11-907 Misd. (A) None OR - \$500 unsecured  
Criminal Imp. Police Off. (phy.injur., Fel A-B) 11-907B(b) Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Criminal Impersonation of Police Officer 11-907B Felony (E) Lv2 \$500 - 3,000 unsecured  
Criminal Mischief > \$1500 11-811 Felony (G) Lv2 \$250 -1,000 unsecured  
Criminal Mischief > \$1 000 11-811 Misd. (A) None OR - \$500 unsecured  
Criminal Mischief < \$1 000 11-811 Misd. (Unclass.) None OR - \$50 unsecured  
Criminally Negligent Homicide 11-631 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Criminal Non-Support (1 st offense) 11-1113 Misd. (B) None OR-\$1 00 unsecured  
Criminal Non-Support (2 + offense) 11-1113 Misd. (A) None OR - \$500 unsecured  
Criminal Nuisance 11-1322 Misd. (Unclass.) None OR - \$50 unsecured  
Criminal-Solicitation I 11-503 Felony (E) Lv2 \$500 - 3,000 unsecured  
Criminal Solicitation II 11-502 Felony (F) Lv2 \$250- 1,500 unsecured  
Criminal Solicitation III 11-501 Misd. (A) None OR - \$500 unsecured  
Criminal Trespass I 11-823 Misd. (A) None OR - \$500 unsecured  
Criminal Trespass II 11-822 Misd. (Unclass.) None OR - \$50 unsecured  
Criminal Trespass III 11-321 Violation None OR-\$25 unsecured  
Cross or Religious Symbol Burning 11-805 Misd. (A) None OR - \$500 unsecured  
Cruelty to Animals - Intentional 11-1325(b) Felony (F) Lv2 \$250 - 1,500 unsecured  
Cruelty to Animals 11-1325 Misd. (A) None OR - \$500 unsecured

**D**

Dangerous Crime Against a Child 11-779 Felony (B-viol.) N/A \$10,000-30,000 secured  
Dealing in Child 11-1100 Felony (E) Lv2 \$500 - 3,000 unsecured  
Debt Adjusting 11-910 Misd. (B) None OR - \$100 unsecured  
Deceptive Business Practices 11-906 Misd. (A) None OR - \$500 unsecured  
Defrauding Secured Creditors 11-891 Misd. (A) None OR - \$500 unsecured  
Del/PWID Non. Cont. Prescrip. Body Build 16-4754A Felony (E-viol.) Lv4-HCP/Lv3 \$500-3,000 secured  
Delivery of Drug Paraphernalia to Minor 16-4773 Felony (E-viol.) Lv4-HCP/Lv3 \$500-3,000 secured  
Delivery of Hypodermic Needle/Syringe I6-4757(d) Felony (G) Lv2 \$250 - 1,000 unsecured  
Delivery of Narcotics to Minor 16-1761 Felony (C-viol.) Lv4-HW \$2,000-10,000 secured  
Delivery of Narcotics Within 300' of Park 16-4768 Felony (C-viol.) Lv4.HW \$2,000 - 10,000 secured  
Delivery of Narcotics Within 1000' School 16-4767(a) Felony (C-viol.) Lv4-HW \$2,000 -10,000 secured  
Delivery Non-Narcotics Within 1000' School 16-4767(a) Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Delivery Non-Narcotics Within 300' of Park 16-4768 Felony (E-viol.) Lv4.HCP/Lv3 \$500 - 3,000 secured  
Desecration 11-1331 Misd. (A) None OR - \$500 unsecured

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Desecration of Grave 11-1340 Misd. (A) None OR - \$500 unsecured  
Disorderly Conduct 11-1301 Misd. (Unclass.) None OR - \$50 unsecured  
Distribution Non-Narcotic CS to Minor 16-4761(2) Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Driving Under the Influence (D.U.I.) (4+ off.) 21-4177(d)4 Felony E Lv2 \$500 - 3,000 unsecured  
Driving Under the Influence (D.U.I.) (3<sup>rd</sup> off.) 21-4177(d)3 Felony G Lv2 \$250 - 1,000 unsecured

## E

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Endangering Children 11-1107 Misd. (Unclass.) None OR - \$50 unsecured  
Endangering Welfare of Child (res. death) 11-1102 Felony (E-viol.) Lv4.HCP/Lv3 \$500 - 3,000 secured  
Endangering Welfare of Child (res. injury) 11-1102 Felony (G-viol.) Lv3 \$250 - 1,000 secured  
Endangering Welfare of Child 11-1102 Misd. (A) None OR - \$500 unsecured  
Endangering Welfare of Incompetent Person 11-1105 Misd. (A) None OR - \$500 unsecured  
Engaging in Crap Game 11-1407 Violation None OR - \$25 unsecured  
Escape II 11.1252 Felony (G) Lv2 \$250- 1,000 unsecured  
Escape After Conviction (injury on escape) 11-1253 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Escape After Conviction (use force/weapon) 11-1253 Felony (C-viol.) Lv4-HW \$2,000 -10,000 secured  
Escape After Conviction 11-1253 Felony (D-viol.) Lv4-HW/HCP \$1,000-5,000 secured  
Execution of Document by Deception 11-909 Misd. (A) None OR - \$500 unsecured  
Exploitation of Infirm Adult > \$500 31-3913(b) Felony (G) Lv2 \$250 - 1,000 unsecured  
Extortion 11-846 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured

## F

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Failure to Answer Summons 11-1907 Misd. (Unclass.) None OR - \$50 unsecured  
Failure to Obtain Child Abuse Information 11-8562(a) Misd. (A) None OR - \$500 unsecured  
Failure to Rep. Abuse of Facility Patient/Res. 16-1136 Misd. (A) None OR - \$500 unsecured  
Failure/Refusal of Registrant to Keep Record 16-4755(a)3 Misd. (A)\* None \$500-1,000 unsecured  
False Benefit Reimburs. Statement \$10,000+ 31-1004(2) Felony (C) Lv4-HWH \$2,000 -10,000 secured  
False Benefit Reimburs. Statemni \$500 - 10K 31-1004(2) Felony (E) Lv2 \$500 - \$3,000 unsecured  
False Benefit Reimburs. Statement < \$500 31-1004(2) Misd. (A) None OR - \$500 unsecured  
False Instrument for Filing 11-877 Misd. (A) None OR - \$500 unsecured  
False Statement for Benefits - \$10,000+ 31-1003 Felony (C) Lv4-HWH \$2,000 - 10,000 secured  
False Statement For Benefits \$500 - \$ 10,000 31-1003 Felony (E) Lv2 \$500 - 3,000 unsecured  
False Statement for Benefits < \$500 31-1003 Misd. (A) None OR - \$500 unsecured  
False Statement or I.D. - Firearm Purchase 11-1448(a)I Felony (G) Lv2 \$250-1,000 unsecured  
Falsely Reporting Incident 11-1245 Misd. (Unclass.) None OR - \$50 unsecured  
Falsifying Business Records 11-871 Misd. (A) None OR - \$500 unsecured  
Falsify Doc. Util. Med. Treat. Prolong Life 16-2513 Felony (C) Lv3 \$2,000 - 10,000 unsecured  
Female Genital Mutilation 11-780 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Fighting and Baiting Animals (owner) 11-1326(a) Misd. (A) None OR - \$500 unsecured  
Fighting and Baiting Animals (in building) 11-1326(b) Misd. (B) None OR - \$100 unsecured  
Firearm Sale Violation (2+ offense) 11-1448A(m) Felony (G) Lv2 \$250 - 1,000 unsecured  
Firearm Sale Violation (1<sup>st</sup> offense) 11-1448A(m) Misd. (A) None OR - \$500 unsecured  
Firearm Transfer on Behalf Another (1<sup>st</sup>) 11-1454 Felony (F) Lv2 \$250 - 1,500 unsecured  
Firearm Transfer on Behalf Another (sub.) 11-1455 Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Foreign Lotteries 11-1402 Misd. (A) None OR - \$500 unsecured  
Forgery I 11-861 (b)I Felony (F) Lv2 \$250 - 1,500 unsecured  
Forgery II 11-861(b)2 Felony (G) Lv2 \$250 - 1,000 unsecured  
Forgery III 11-861(b)3 Misd. (A) None OR - \$500 unsecured  
Fraud in Insolvency 11-892 Misd. (A) None OR - \$500 unsecured  
Fraudulent Conveyance of Public Lands 11-911 Felony (G) Lv2 \$250 - 1,000 unsecured  
Fraudulent Receipt of Public Lands 11-912 Felony (G) Lv2 \$250 - 1,000 unsecured  
Furnishing Contraband 11-6562A Misd. (Unclass.) None OR - \$50 unsecured

## G

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Giving Firearm to Person Prohibited 11-1454 Felony (F) Lv2 \$250 - 1,500 unsecured  
Giving Unlawful Gratuity to Public Serv. 11-1205 Misd. (A) None OR - \$500 unsecured  
Graffiti 11-812 Misd. (Unclass.) None OR - \$50 unsecured

## H

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Harassment 11-1311 Misd. (B) None OR - \$ 100 unsecured  
Harassment of K-9 Dog 11-1250(a) Misd. (Unclass.) None OR - \$50 unsecured  
Hate Crime (Felony A underlying) 11-1304 Felony (A) N/A \$20,000 - 50,000 secured  
Hate Crime (Felony B underlying) 11-1304 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Hate Crime (Felony (C-viol.) underlying) 11-1304 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Hate Crime (Felony D underlying) 11-1304 Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Hate Crime (Felony E underlying) 11-1304 Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Hate Crime (Felony F underlying) 11-1304 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured



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Hate Crime (Felony G underlying) 11-1304 Felony (F-viol.) Lv4-HCP/Lv3 \$250 - 1,500 secured  
Hate Crime (Misd. A,B,C underlying) 11-1304 Felony (G-viol.) Lv3 \$250 -1,000 secured  
Hate Crime (violation/unclass. underlying) 11-1304 Misd. (A-viol.) Lv2 OR - \$500 unsecured  
Hindering Prosecution (of felony) 11-1244(b) Felony (G) Lv2 \$250 - 1,000 unsecured  
Hindering Prosecution (of misdemeanor) 11-1244 Misd. (A) None OR - \$500 unsecured  
Hiring Minor to Violate Any Drug Provision 16-476(c) Felony (G-viol.) Lv3 \$250 -1,000 secured  
Hoax Device 11-622 Felony (F)  
Home Improvement Fraud > \$500 11-916 Felony (G) Lv2 \$250 - 1,000 unsecured  
Home Improvement Fraud < \$500 11-916 Misd. (A) None OR - \$500 unsecured

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## I

Illegal Distribution of Controlled Substance 16-4755 (a)I Felony (F) Lv2 \$250 - 1,500 unsecured  
Improper Influence 11-1207 Misd. (A) None OR - \$500 unsecured  
Improper Labeling 11-922 Misd. (Unclass.) None OR - \$50 unsecured  
Improper Use of Weap. Purch. Rec. Check 11-I448A(k) Misd. (A) None OR - \$500 unsecured  
Incest 11-766 Misd. (A-viol.) Lv2 OR - \$500 unsecured  
Indecent Exposure I 11-765 Misd. (A) None OR - \$500 unsecured  
Indecent Exposure II 11-764 Misd. (Unclass.) None OR - \$50 unsecured  
Insurance Fraud 11-913 Felony (G) Lv2 \$250 - 1,000 unsecured  
Interfer. with Child Wit. (won't prod. child) 11-1263A Felony (E) Lv2 \$500 - 3,000 unsecured  
Interfer. with Child Wit. (rem. child victim) 11-1263A Felony (F) Lv2 \$250 - 1,500 unsecured  
Interfer. with Child Wit. (rem. child witness) 11-1263A Felony (G) Lv2 \$250-1,000 unsecured  
Interfer. with Child Wit. (non-complainant) 11-1263A Felony (G) Lv2 \$250 -1,000 unsecured  
Interference with Custody (remove from DE) 11-785 Felony (G) Lv2 \$250 - 1,000 unsecured  
Interference with Custody 11-785 Misd. (A) None OR - \$500 unsecured  
Interference with Levied Upon Property 11-893 Misd. (A) None OR - \$500 unsecured  
Intimidation 11-3532 Felony (E) Lv2 \$500 - 3,000 unsecured  
Issuing Abortion Article 11-653 Misd. (B) None OR - \$100 unsecured  
Issuing Bad Check > \$1000 11-900 Felony (G) Lv2 \$250 - 1,000 unsecured  
Issuing Bad Check < \$1000 11-900 Misd. (A) None OR - \$500 unsecured  
Issue False Certificate 11-378 Felony (C) Lv2 \$250 - 1,000 unsecured

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## K

Keeping Drugs in Original Container (Fail to) 16-4758 Felony(G) Lv2 \$250 -1,000 unsecured  
Kickback Schemes 31-1005 Felony (E) Lv2 \$500 - 3,000 unsecured  
Kidnapping I 11-783A Felony (B-viol.) N/A \$10,000 – 50,000 secured  
Kidnapping II 11-783 Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured

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## L

Larceny of Livestock 11-859 Felony (G) Lv2 \$250 -1,000 unsecured  
Lewdness 11-1341 Misd. (B) None OR - \$1 00 unsecured  
Loitering 11-1321 Violation None OR - \$25 unsecured  
Loitering on State-Supported School/College 11-1320 Violation None OR - \$25 unsecured

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## M

Maintaining Dwell./Veh. Illegal Use/Dist. 16-4755(a)5 Felony (F) Lv2 \$250 - 1,500 unsecured  
Maintaining a Fire Hazard 16-6611 Misd. (Unclass.) None OR - \$50 unsecured  
Maintaining an Obstruction (2nd w/i 2 years) 11-1423 Misd. (A) None OR - \$500 unsecured  
Maintaining an Obstruction (1<sup>st</sup>) 11-1428 Violation None OR - \$25 unsecured  
Making a False Written Statement 11-1233 Misd. (A) None OR - \$300 unsecured  
Malicious Obstruct. of Emerg. Phone Calls 11-1313 Misd. (B) None OR-\$100 unsecured  
Man./Del.. Of Sch. I or II Narc. Res. Death 16-475 I(c) Felony (B-viol.) N/A \$10,000 – 30,000 secured  
Man./Del./PWID Drug Paraphernalia 16-4772 Felony (G) Lv2 \$250 -1,000 unsecured  
Man./Del./PWID Narc. I or II 16-475I (a) Felony (C-viol.)\* Lv4-HW > of \$5,000 sec. or value  
Man./Del./PWID Narc. III - V 16-475I (b) Felony (E-viol.)\* Lv4-HCP/Lv3 > of \$5,000 sec. or value  
Man./Del./PWID Non-narcotic 16-4752 Felony (E-viol.)\* Lv4-HCP/Lv3  
Marijuana Less than 1 pound \$1,000 – 3,000 unsecured1 pound or more \$500 secured per pound  
Hashish Less than 1 ounce \$1,000 - 3,000 unsecured 1 ounce or more \$500 secured per ounce  
Man./Use/Poss. Of Explosive or Incend. Dev. 11-1338 Felony (D-viol.) Lv4-HW/HCP \$1,000 -5,000 secured  
Manslaughter 11-632 Felony (C-viol.) Lv4.HW \$2,000-10,000 secured  
Menacing 11-602 Misd. (Unclass.) None OR - \$50 unsecured  
Misapplication of Property > \$1000 11-848 Felony (G) Lv2 \$250 -1,000 unsecured  
Misapplication of Property < \$1000 11-843 Misd. (A) None OR - \$500 unsecured  
Misconduct by Juror 11-1267 Misd. (A) None OR - \$500 unsecured  
Misuse of Prisoner Mail (2nd- offense) 11-1260 Felony (G) Lv2 \$250-1,000 unsecured  
Misuse of Prisoner Mail 11-1260 Misd. (A) None OR - \$500 unsecured  
Murder I 11-636 Felony (A) N/A Hold without bail

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Murder II 11-635 Felony (B-viol.) N/A \$10,000-30,000 secured  
Murder by Abuse/Neglect I 11-634 Felony (A) N/A \$20,000 - 50,000 secured  
Murder by Abuse/Neglect II 11-633 Felony (B-viol.) N/A \$10,000 - 30,000 secured

## N

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New Home Construction Fraud > \$100,000 11-917 Felony (C) Lv3 \$2,000 - 10,000 unsecured  
New Home Construction Fraud \$50K - 100K 11-917(d)2 Felony (F) Lv2 \$250 - 1,500 unsecured  
New Home Construction Fraud \$1000 – 50K 11-917(d)I Felony (G) Lv2 \$250 - 1,000 unsecured  
New Home Construction Fraud < \$1000 11-917(d) Misd. (A) None OR - \$500 unsecured

## O

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Obscenity (sale to child < 18) 11-1361 Felony (E) Lv2 \$500 - 3,000 unsecured  
Obscenity 11-1361 Felony (G) Lv2 \$250-1,000 unsecured  
Obscene Literature Harmful to Minors 11-1365 Misd. (A) None OR - \$500 unsecured  
Obstructing Control of Rabies 11-1248 Misd. (B) None OR - \$100 unsecured  
Obstructing Firefighting 11-1243 Misd. (A) None OR - \$500 unsecured  
Obstructing Ingress/Egress at Public Bldg. 11-1324 Misd. (Unclass.) None OR - \$50 unsecured  
Obstructing Public Passages 11-1323 Violation None OR - \$25 unsecured  
Obstructing Rabies Control Dur. Emergency 11-1248 Felony (E) Lv2 \$500 - 3,000 unsecured  
Offensive Touching 11-601 Misd. (Unclass.) None OR - \$50 unsecured  
Official Misconduct 11-1211 Misd. (A) None OR - \$500 unsecured

## P

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Patronizing a Prostitute 11-1343 Misd. (Unclass.) None OR - \$50 unsecured  
Perjury I 11-1223 Felony (D) Lv2 \$1,000- 5,000 unsecured  
Perjury II 11-1222 Felony (F) Lv2 \$250 - 1,500 unsecured  
Perjury III 11-1221 Misd. (A) None OR - \$500 unsecured  
Possession of Burglars Tools 11-828 Felony (F) Lv2 \$250-1,500 unsecured  
Poss. Animal After Felony Cruelty Convict. 11-1325(d) Felony (F) Lv2 \$250 - 1,500 unsecured  
Poss. Animal After Misd. Cruelty Conviction 11-1325(c) Misd. (A) None OR - \$500 unsecured  
Possession of Child Pornography 11-1111 Misd. (A) None OR - \$500 unsecured  
Possession C/S within 1000' of School 16-4767 Felony (G-viol.) Lv3 \$250- 1,000 secured  
Possession C/S within 300' of Park 16-4768.1 Felony (G-viol.) Lv3 \$250-1,000 secured  
Poss. Deadly Weapon Dur. Comm. Felony 11-1447 Felony (B-viol.) N/A \$10,000–30,000 secured  
Possession of Fireworks 11-6905 Misd. (Unclass.) None OR - \$50 unsecured  
Poss/Purch. Weapon by Person Prohibited 11-1448 Felony (F) Lv2 \$250 - 1,500 unsecured  
Poss. Deadly Weapon Person Proh. (M-DV) 11-1448(a)7 Felony (F-viol.) Lv4.HCP/Lv3 \$250- 1,500 secured  
Poss. Deadly Weapon Person Proh. (PFA) 11-1448(a)6 Felony (F-viol.) Lv4-HCP/Lv3 \$250 -1,500 secured  
Poss./Dealing Dev. Take Tel. Services (5+) 11-850 Felony (G) Lv2 \$250 -1,000 unsecured  
Poss./Dealing Dev. Take Tel. Services 11-850 Misd. (Unclass.) None OR - \$50 unsecured  
Possession of Destructive Weapon 11-1444 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Possession of Drug Paraphernalia 16-4771 Misd. (A)\* None \$500-1,000 unsecured  
Poss. Firearm Dur. Comm. Felony 11-1447A Felony (B-viol.) N/A \$10,000-30,000 secured  
Poss. Firearm by Person Prohibited 11-1448(c) Felony (D-viol.) Lv4-HW/HCP \$1,000-5,000 secured  
Poss. Firearm by Person Proh. (DV) 11-1447a7 Felony (D-viol.) Lv4-HW/HCP \$1,000-5,000 secured  
Poss. Firearm Under PFA Order 11-1448a5 Felony (D-viol.) Lv4-HW/HCP \$1,000-5,000 secured  
Possession of Forgery Devices 11-862 Felony (G) Lv2 \$250-1,000 unsecured  
Possession of Gambling Device 11-1405 Misd. (A) None OR - \$500 unsecured  
Possession of Hypodermic Needle/Syringe 16-4757(c) Misd, (Unclass.)\* None \$500 - 1,000 unsecured  
Poss/Use/Cons. Of Narcotics (I st.) 16-4753 Misd. (A)\* Lv2 \$500 -1,000 unsecured  
Poss/Use/Cons. of Narc. (prior title 16 conv.) 16-4763 Misd. (A)\* Lv2 \$250 -1,000 secured  
Poss/Use/Cons. of Non-Narcotic Drug 16-4754 Misd. (B)\* None \$500 -1,000 unsecured  
Poss. Of Noncontrolled Prescription Drug 16-4754A Misd. (B)\* NONE \$500 -1,000 unsecured  
Poss. Weap. School/Rec. Zone (under. FE) 11-1457(j)3 Felony (D) Lv2 \$1,000 - 5,000 unsecured  
Poss. Weap. School/Rec. Zone (under. FF) 11-1457(j) Felony (E) Lv2 \$500 - 3,000 unsecured  
Poss. Weap. School/Rec. Zone (under. FG) 11-1457(j) Felony (F) Lv2 \$250 -1,500 unsecured  
Poss. Weap. School/Rec. Zone (under. MB) 11-1457(j) Misd. (A) None OR - \$500 unsecured  
Poss. Weap. School/Rec. Zone (under. ML) 11-1457(j) Misd. (B) None OR - \$1 00 unsecured  
Profiteering 11-1212 Misd. (A) None OR - \$500 unsecured  
Promoting Prison Contraband (weapon) 11-1256 Felony (F-viol.) Lv4-HCP/Lv3 \$250 - 1,500 secured  
Promoting Prison Contraband 11-1256 Misd, (A) None OR - \$500 unsecured  
Promoting Prostitution I 11-1353 Felony (C-viol.) Lv4-HW \$2,000-10,000 secured  
Promoting Prostitution II 11-1352 Felony (E) Lv2 \$500 - 3,000 unsecured  
Promoting Prostitution III 11-1351 Felony (F) Lv2 \$250 – 1,500 unsecured  
Promoting Suicide 11-645 Felony (F-viol.) Lv4-HCP/Lv3 \$250-1,500 secured  
Prostitution 11-1342 Misd. (B) None OR - \$100 unsecured  
Prostitution, Permitting 11-1355 Misd. (B) None OR - \$100 unsecured  
Providing False Child Abuse Information 11-8562(b) Felony (G) Lv2 \$250 - \$1,000 unsecured

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Providing Obscenity to Minor 11-1361 Felony (E) Lv2 \$500 - 3,000 unsecured  
Providing Premises for Gambling (2<sup>nd</sup> w/in 5 yr) 11-1404 Misd. A (o&d) None OR - \$500 unsecured  
Providing Premises for Gambling (1<sup>st</sup> off) 11-1404 Misd. (Unclass.) None OR - \$50 unsecured  
Public Intoxication (3- within 1 year) 11-1315 Misd. (Unclass.) None OR - \$50 unsecured  
Public Intoxication (<3 within 1 year) 11-1315 Violation None OR - \$25 unsecured

## R

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Racketeering 11-1504(a) Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Rape I 11-773 Felony (A) N/A \$20,000 - 50,000 secured  
Rape II 11-772 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Rape III 11-771 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Rape IV 11-770 Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Receiving a Stolen Firearm 11-1450 Felony (F) Lv2 \$250 - 1,500 unsecured  
Receiving Stolen Prop. (> \$1000 or 3<sup>rd</sup> off.) 11-851 Felony (G) Lv2 \$250 - 1,000 unsecured  
Receiving Stolen Property < \$1000 11-851 Misd. (A) None OR - \$500 unsecured  
Receiving Unlawful Gratuity by Public Serv. 11-1206 Misd. (A) None OR - \$500 unsecured  
Reckless Burning (damage > \$1500) 11-804 Felony (G) Lv2 \$250 - 1,000 unsecured  
Reckless Burning (damage <\$1500) 11-804 Misd. (A) None OR - \$500 unsecured  
Reckless Endangering I 11-604 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Reckless Endangering II 11-603 Misd. (A-viol.) Lv2 OR - \$500 unsecured  
Refusal to Allow Inspection 16-4755(a)4 Felony (F) Lv2 \$250 - 1,500 unsecured  
Refusal to Permit Photos/Fingerprinting 11-8522 Misd. (A) None OR - \$500 unsecured  
Refusal/Neglect to Make Report 11-8523(a) Misd. (A) None OR - \$500 unsecured  
Refusing to Aid a Police Officer 11-1241 Misd. (B) None OR - \$100 unsecured  
Registration of Out-of-State Liquor Agent 11-1316 Violation None OR - \$25 unsecured  
Removing Firearm From Law. Enforce. Off. 11-1458 Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Resisting Arrest 11-1257 Misd. (A) None OR - \$500 unsecured  
Riot 11-1302 Felony (F-viol.) Lv4-HCP/Lv3 \$250 - 1,500 secured  
Robbery I 11-832 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Robbery II 11-831 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured

## S

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Sale of Fireworks 16-6905 Misd. (Unclass.) None OR - \$50 unsecured  
Sale of Transferred Recorded Sound 11-921 Misd. (A) None OR - \$500 unsecured  
Sexual Exploitation of a Child 11-1108 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Sexual Extortion 11-776 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Sexual Harassment 11-763 Misd. (Unclass.) None OR - \$50 unsecured  
Sex Offender Failure to Comply w/4120 11-4120.2 Felony (G) Lv2 \$250 - 1,000 unsecured  
Sex Offender, Failure to Register 11-4120.1 Felony (G) Lv2 \$250 - 1,000 unsecured  
Sex Offender Living w/i 500' of School 11-1112 Felony (G) Lv2 \$250 - 1,000 unsecured  
Sex Offender Loitering w/i 500' of School 11-1112 Felony (F) Lv2 \$250 - 1,500 unsecured  
Sexual Relations in Detention Facility 11-1259 Felony (G) Lv2 \$250 - 1,000 unsecured  
Shoplifting > \$1000 11-840 Felony (G) Lv2 \$250 - 1,000 unsecured  
Shoplifting < \$1000 11-840 Misd. (A) None OR - \$500 unsecured  
Smoking on Bus or Trolley 11-1327 Violation None OR - \$25 unsecured  
Stalking (w/poss. of deadly weapon) 11-1312A Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Stalking (threat of death/serious injury) 11-1312A Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Stalking 11-1312A Felony (F-viol.) Lv4-HCP/Lv3 \$250 - 1,500 secured  
Substances Releasing Vapors/Fumes 11-627 Misd. (Unclass.) None OR - \$50 unsecured

## T

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Tampering With a Juror 11-1266 Misd. (A) None OR - \$500 unsecured  
Tampering with Physical Evidence 11-1269 Felony (G) Lv2 \$250 - 1,000 unsecured  
Tampering with Public Records I 11-876 Felony (E) Lv2 \$500 - 3,000 unsecured  
Tampering with Public Records II 11-873 Misd. (A) None OR - \$500 unsecured  
Terroristic Threat, (bomb-school/day care) 11-621(a)2 Felony (F) Lv2 \$250 - 1,500 unsecured  
Terroristic Threatening (cause evacuation) 11-621(a)2 Felony (G) Lv2 \$250 - 1,000 unsecured  
Terroristic Threatening 11-621 Misd. (A-viol.) Lv2 OR - \$500 unsecured  
Theft > \$100,000 11-841 Felony (C) Lv3 \$2,000 - 10,000 unsecured  
Theft > \$50,000 but < \$100,000 11-841 Felony (E) Lv2 \$500 - 3,000 unsecured  
Theft > \$1,000 (victim 60+) 11-841 Felony (F) Lv2 \$250 - 1,500 unsecured  
Theft >\$1,000 11-841 Felony (G) Lv2 \$250 - 1,000 unsecured  
Theft < \$1,000 (victim 60+) 11-841 Felony (G) Lv2 \$250 - 1,000 unsecured  
Theft <\$1,000 11-841-45 Misd. (A) None OR - \$500 unsecured  
Theft of Firearm 11-1451 Felony (F) Lv2 \$250 - 1,500 unsecured  
Theft of Rental Property > \$1000 11-849 Felony (G) Lv2 \$250 - 1,000 unsecured  
Theft of Rental Property < \$1000 11-849 Misd. (A) None OR - \$500 unsecured  
Threat to Public Officials 11-1240 Felony (G) Lv2 \$250 - 1,000 unsecured

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Threat/intimidation to Withdraw Med. Maint. 16-2513 Misc. (Unclass.) None OR - \$50 unsecured  
Ticket Scalping (2<sup>nd</sup> offense) 11-91S Misd. (A) None OR - \$500 unsecured  
Ticket Scalping (1<sup>st</sup> offense) 11-913 Misd. (B) None OR - \$100 unsecured  
Tobacco Sales Violations (11-1115 - 1120) 11-1115+ Violation None OR - \$25 unsecured  
Trading in Human Remains/Funerary Objects 11-1333 Misd. (B) None OR - \$100 unsecured  
Trafficking in Cocaine 16-4753A Felony (B-viol.)\* N/A \$2,000 secured per gram  
Trafficking in Food Stamps (w/ Drugs/Weap.) 31-610 Felony (B-viol.)\* N/A \$10,000 - 30,000 secured  
Trafficking in Hashish 16-4753A Felony (B-viol.)\* N/A \$1,000 secured per pound  
Trafficking in Marijuana 16-4753A Felony (B-viol.)\* N/A \$1,000 secured per pound  
Trafficking in Meth./Amphet/PCP/Etc. 16-4753A Felony (B-viol.)\* N/A \$1,000 secured per gram  
Transfer of Recorded Sounds 11-920 Felony (G) Lv2 \$250 - 1,000 unsecured  
Trespassing With Intent to Peep/Peer 11-820 Misd. (B) None OR - \$100 unsecured

## U

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Unauthorized Manuf./Distrib. Control: Sub. 16-4755(a) 2 Felony (F) Lv2 \$250 - 1,500 unsecured  
Unauthorized Use/Poss. Food Stamps > \$500 31-610 Felony (E) Lv2 \$500 - \$3,000 unsecured  
Unauthorized Use/Poss. Food Stamps < \$500 31-610 Misd. (A) None OR - \$500 unsecured  
Unauthorized Use of Motor Vehicle 11-853 Misd. (A) None OR - \$500 unsecured  
Unlawful Admin. Of C/S, Counterfeit or Narc 11-626 Felony (G) Lv2 \$250 - 1,000 unsecured  
Unlawfully Administering Drugs 11-625 Misd. (A) None OR - \$500 unsecured  
Unlawful Concealing Will 11-908 Felony (G) Lv2 \$250 - 1,000 unsecured  
Unlawful Conversion of Benefits - \$10,000+ 31-1006 Felony (C) Lv3 \$2,000 - 10,000 unsecured  
Unlawful Conversion of Benefits - \$500-10K 31-1006 Felony (E) Lv2 \$500 - \$3,000 unsecured  
Unlawful Conversion of Benefits <\$500 31-1006 Misd. (A) None OR - \$500 unsecured  
Unlawful Dealing with Child 11-1106 Misd. (B) None OR - \$100 unsecured  
Unlawful Deal. with Child Porno, (sub.) 11-1110 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Unlawful Dealing with Dangerous Weapon (transfer to person knowing he/she will commit a felony) 11-1445(5) Felony (E-viol.) Lv2 \$500 - 3,000 secured  
Unlawful Dealing with Dangerous Weapon (transfer firearm to child < 18) 11-1445(4) Felony (G) Lv2 \$250 - 1,000 unsecured  
Unlawful Dealing with Dangerous Weapon 11-1445 Misd. (Unclass.) None OR - \$50 unsecured  
Unlawful Deal. with Knuckles/Combo Knife (In safe school or recreation zone) 11-1452 Misd. (A) None OR - \$500 unsecured  
Unlawful Deal. with Knuckles/Combo Knife 11-1452 Misd. (B) None OR - \$100 unsecured  
Unlawful Deal. with Martial Arts Throw. Star (In safe school or recreation zone) 11-1453 Misd. (A) None OR - \$500 unsecured  
Unlawful Dealing with a Switchblade Knife 11-1446 Misd. (Unclass.) None OR - \$50 unsecured  
Unlawful Deal. with Martial Arts Throw. Star 11-1452 Misd. (B) None OR - \$100 unsecured  
Unlawful Deal. Mat. Depict. Child Proh. Acts 11-1109 Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Unlawful Delivery of Non-controlled Sub 16-4752A Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Unlawful Disruption School (repealed - 5'96) 11-1303 Felony (G) Lv2 \$250 - 1,000 unsecured  
Unlawful Dissemination of Gambling Info. 11-1411 Misd. (A) None OR - \$500 unsecured  
Unlawful Distrib., Use of Fraud to Obtain or Supply False Info To Obtain C/S 16-4756 Felony (F) Lv2 \$250 - 1,500 unsecured  
Unlawful Grand Jury Disclosure 11-1273 Misd. (B) None OR - \$100 unsecured  
Unlawful Imprisonment I 11-782 Felony (G-viol.) Lv3 \$250- 1,000 secured  
Unlawful Imprisonment II 11-781 Misd. (A) None OR - \$500 unsecured  
Unlawful Permitting Minor Access to Firearm 11-1456 Misd. (A) None OR - \$500 unsecured  
Unlawful Sexual Contact I 11-769 Felony (F-viol.) Lv4-HCP/Lv3 \$250 - 1,500 secured  
Unlawful Sexual Contact II 11-768 Felony (G-viol.) Lv3 \$250- 1,000 secured  
Unlawful Sexual Contact III 11-767 Misd. (A-viol.) Lv2 OR - \$300 unsecured  
Unlawful Sexual Intercourse I (repealed) 11-775 Felony (A) N/A \$20,000 - 50,000 secured  
Unlawful Sexual Intercourse II (repealed) 11-774 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Unlawful Sexual Intercourse III (repealed) 11-773 Felony (C-viol.) Lv4-HW \$3,000 - 10,000 secured  
Unlawful Sexual Intercourse III (repealed) 11-773(3) Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Unlawful Sexual Penetration I (repealed) 11-772 Felony (C-viol.) Lv4-HW \$2,000 - 10,000 secured  
Unlawful Sexual Penetration II (repealed) 11-771 Felony (D-viol.) Lv4-HW/HCP \$1,000 - 5,000 secured  
Unlawful Sexual Penetration III (repealed) 11-770 Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Unlawful Transfer Firearm for Comm. Crime 11-1445(5) Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Unlawful Transfer Firearm to Child 11-1445(4) Felony (G) Lv2 \$250 -1,000 unsecured  
Unlawful Transportation of Dead Body 16-3111(b) 2 Misd. (A) None OR - \$500 unsecured  
Unlawful Use of Consumer I.D. Info. 11-914 Misd. (Unclass.) None OR - \$50 unsecured  
Unlawful Use of Credit Card > \$1000 11-903 Felony (G) Lv2 \$250 -1,000 unsecured  
Unlawful Use of Credit Card < \$1000 11-903 Misd. (A) None OR - \$500 unsecured  
Unlawful Use of Credit Card Info. 11-915 Misd. (Unclass.) None OR - \$50 unsecured  
Unlawful Use of Criminal History Info. 11-8523(d) Misd. (A) None OR - \$500 unsecured  
Use of Animal to Avoid Capture (fel. /injury) 11-1257A Felony (G-viol.) Lv3 \$250 -1,000 secured  
Use of Animal to Avoid Capture (misd.) 11-1257A Misd. (A) None OR - \$500 unsecured

## V

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Vehicular Assault I 11-629 Felony (F-viol.) Lv4-HCP/Lv3 \$250 - 1,500 secured  
Vehicular Assault II 11-628 Misd. (B) None OR - \$100 unsecured

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Vehicular Homicide I 11-630A Felony (E-viol.) Lv4-HCP/Lv3 \$500 - 3,000 secured  
Vehicular Homicide II 11-630 Felony (F-viol.) Lv4-HCP/Lv3 \$250 - 1,500 secured  
Video Privacy Protection 11-925 Misd. (Unclass.) None OR - \$50 unsecured  
Violations Concerning Vital Stat. Records 16-3111 Misd. (Unclass.) None OR - \$50 unsecured  
Violation of Privacy (tape, photo, film) 11-1335(a) 6 Felony (G) Lv2 \$250 - 1,000 unsecured  
Violation of Privacy 11-1335(a) Misd. (A) None OR - \$500 unsecured

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Wearing Body Armor Dur. Comm. Felony 11-1449 Felony (B-viol.) N/A \$10,000 - 30,000 secured  
Wearing Disguise Dur. Comm. Felony 11-1239 Felony (E) Lv2 \$500 - 3,000 unsecured  
Willful Neglect/Violation of Tit. 31, Chap. 31 16-3111(b) 3 Misd. (A) None OR - \$500 unsecured  
Willful Refusal to Give Vital Record Info. 16-3111(b) 1 Misd. (A) None OR - \$500 unsecured  
Wiretapping 11-2402(a) Felony (E) Lv2 \$500 - 3,000 unsecured  
Wiretapping, Divulg. Cont. of Comm. (2+ off) 11-2402(c) 1 Felony (F) Lv2 \$250 -1,500 unsecured  
Wiretapping, Divulg. Cont. of Comm. (1<sup>st</sup> off) 11-2402(e) 2 Misd. (A) None OR - \$500 unsecured  
Wiretapping, Divulg. Cont. of Comm. (1<sup>st</sup> off and *not* for illegal purpose, radio, cell ph.) 11-2402(e) 3 Misd. (Unclass.) None OR - \$50 unsecured  
Wiretapping, Poss/Sale of Intercept. Device 11-2403 Felony (F) Lv2 \$250 - 1,500 unsecured